

سنن ابوداؤد

# SUNAN ABU DAWUD

English Translation with Explanatory Notes  
by

Prof. Ahmad Hasan

**Volume - II**





# **SUNAN ABU DAWUD**

**ENGLISH TRANSLATION WITH  
EXPLANATORY NOTES**

*by*

**AHMAD HASAN**

**Professor, Islamic Research Institute  
Islamia University, Islamabad**

**Volume II (Chapters 519-1337)**

**Kitab Bhavan**  
**New Delhi-110002**

## **KITAB BHAVAN**

Publishers, Distributors, Exporters & Importers  
1784, Kalan Mahal, Darya Ganj,  
New Delhi - 1100 02 (India)

Phones : (91-11) 23277392/93, 23274686, 32906494

Fax : (91-11) 23263383

Website: [www.nusratalinasri.com](http://www.nusratalinasri.com)

Email : [nasri@vsnl.com](mailto:nasri@vsnl.com)  
Email : [nusrat@bol.net.in](mailto:nusrat@bol.net.in)

1<sup>st</sup> Edition : 1990

11<sup>th</sup> Edition : 2012

ISBN : 81-7151-113-9 (Set)

ISBN : 81-7151-116-3 (Vol. III)

Book Code No. : ZZZ0114 (Set)

Book Code No. : S000020 (Vol. III)

*Printed & Published in India by :*  
Nusrat Ali Nasri for KITAB BHAVAN  
1784, Kalan Mahal, Darya Ganj,  
New Delhi - 1100 02 [India]

## CONTENTS

### III. KITĀB AL-ZAKĀT (*Book of Zakāt*), pp. 403-451

#### *Chapters*

- 519. *Zakāt*, 403
- 520. Property on Which *Zakāt* is Payable, 404
- 521. If the Property is Meant for Trade, Will *Zakāt* be Levied upon It, 405
- 522. On the Meaning of *Kanz* (Treasure) and *Zakāt* on Jewellery, 405
- 523. *Zakāt* on Pasturing Animals, 406
- 524. On Pleasing the Collector of *Zakāt*, 415
- 525. Blessing of the Collector of *Zakāt* to the Payers, 416
- 526. On the Ages of Camels, 416
- 527. On the Place where *Zakāt* is to be Paid, 417
- 528. On A Person who Buys His *Zakāt* after Its Payment, 417
- 529. *Zakāt* on Slaves, 418
- 530. *Zakāt* on Agricultural Produce, 418
- 531. *Zakāt* on Honey, 418
- 532. Estimating Vines for *Zakāt*, 419
- 533. On Estimating the Fruit on Trees, 420
- 534. When Palm-trees are to be Estimated, 420
- 535. Which Fruits Are Not to be Accepted as *Zakāt*, 420
- 536. *Zakāt* for the Closing of Fast at the End of Ramaḍān, 421
- 537. When *Ṣadaqah* at the End of Ramaḍān Is to be Given, 421
- 538. How Much *Ṣadaqah* should be Given at the End of Ramaḍān, 422
- 539. The View that A ṣā' of Wheāt is to be Given as *Ṣadaqah*, 423
- 540. No Caption, 424
- 541. Payment of *Zakāt* in Advance before it Falls Due, 424
- 542. Transfer of *Zakāt* of One City to Another City, 425
- 543. To Whom *Zakāt* is to be Paid and the Definition of a Wealthy Person, 426
- 544. The Rich Person who is Allowed to Accept *Ṣadaqah*, 429
- 545. How Much *Zakāt* can be Given to a Single Person, 429
- 546. Situations where Begging is Allowed and Where It is Not Allowed, 430
- 547. Disapproval of Begging, 431
- 548. On Abstinence from Begging, 432
- 549. On Giving *Ṣadaqah* to Banū Hāshim, 433
- 550. A Poor Man Can Give a Gift from the *Ṣadaqah* to a Rich Man, 434



- 551. On a Person Who Gives the *Ṣadaqah* and He Inherits it Later On, 434
- 552. The Rights Relating to Property, 435
- 553. The Right of a Beggar, 437
- 554. The Giving of *Ṣadaqah* (Alms) to Non-Muslims, 437
- 555. Things Which Should not be Refused when Asked For, 438
- 556. Begging in the Mosques, 438
- 557. Repugnance of Begging in the Name of Allah, the Exalted, 438
- 558. On Giving a Person Who Beggars in the Name of Allah, 439
- 559. On Giving all the Property as *Ṣadaqah* by a Man, 439
- 560. Concession for Giving all the Property as *Ṣadaqah*, 440
- 561. On the Excellence of Supplying Drinking Water, 441
- 562. On Lending Something, 441
- 563. Reward for a Trustee, 442
- 564. *Ṣadaqah* Given by a Woman from Her Husband's Property, 442
- 565. On Doing Kindness to Near Relatives, 443
- 566. Disapproval of Avarice, 445
- 567. Finds, 446

#### IV. KITĀB AL-MANĀSIK AL-ḤAJJ (*Book of the Rites of Ḥajj*), pp. 452-543

- 568. Rites of *Ḥajj*, 452
- 569. On A Woman who Journeys for *Ḥajj* without a Man who is Within the Prohibited Degree, 453
- 570. No Permission for Failure to Perform *Ḥajj*, 454
- 571. Bringing Provisions for *Ḥajj*, 454
- 572. Trading During *Ḥajj*, 454
- 573. No Caption, 455
- 574. Hiring Riding Beasts during *Ḥajj*, 455
- 575. On the Validity of a Child's *Ḥajj*, 456
- 576. Places for Putting on *Iḥrām* (the Pilgrim Dress) (*Mawāqit*), 456
- 577. A Menstruating Woman Can Put on *Iḥrām*, 457
- 578. Use of Perfume at the Time of Wearing *Iḥrām*, 458
- 579. On Matting the Hair, 459
- 580. The Sacrificial Animals, 459
- 581. Permission for Sacrificing a Cow (or Ox), 459
- 582. To Make Incision in the Body of the Sacrificial Animals, 460
- 583. Change of Sacrificial Animal, 460
- 584. On a Person Who Sends His Sacrificial Animals to Mecca and Stays Himself at Home, 461
- 585. Riding on the Sacrificial Camel, 462

586. What a Man Should Do if a Sacrificial Animal Becomes Fatigued on Its Way to Mecca, 462
587. How Are the Camels Sacrificed, 463
588. The Time Prescribed for Wearing *Ihrām*, 464
589. Making Proviso before Performing *Hajj*, 465
590. To Perform *Hajj* Exclusively without Performing 'Umrah in the Beginning (*Ifrād*), 466
591. On Combining *Hajj* and 'Umrah (*Qirān*), 473
592. On a Person Who Raises His Voice in *Talbiyah* for *Hajj* and Afterwards Changes it into 'Umrah, 477
593. On a Person Who Performs *Hajj* on Behalf of Another Person, 477
594. How is *Talbiyah* to be Uttered, 478
595. When *Talbiyah* Should be Discontinued, 479
596. When *Talbiyah* Should be Stopped by a Pilgrim who Performs 'Umrah, 480
597. On A Man who Beats His Slave while He is in the Sacred State (wearing *Ihrām*), 480
598. On a Person Who Puts on His Clothes as *Ihrām*, 481
599. Which Clothing Should a Man Who Intends to Wear *Ihrām* Put On, 482
600. A Pilgrim in the State of *Ihrām* May Carry Arms, 483
601. Can A Pilgrim Woman in the State of *Ihrām* Veil Herself, 484
602. On A Pilgrim who is Provided Shelter from the Heat, 484
603. On a Pilgrim who Has Himself Cupped, 484
604. On the Applying of Aloes to the Eyes by a Pilgrim who is in the Sacred State, 485
605. On Taking a Bath by a Pilgrim in the Sacred State, 485
606. On Marrying by a Pilgrim in the Sacred State, 486
607. Which of the Creatures can be Killed by a Pilgrim in the Sacred State, 487
608. On Eating the Flesh of Game by a Pilgrim who is Wearing *Ihrām*, 488
609. On killing Locusts by a Pilgrim who is Wearing *Ihrām*, 489
610. On Payment of a Ransom, 489.
611. Being Detained and Missing the *Hajj*, 490
612. Entering Mecca, 491
613. Raising Both Hands when a Pilgrim Looks at the House (*Ka'bah*), 492
614. On Kissing the Stone, 493
615. On Touching the Corners, 493.
616. The Obligatory Circumambulation, 494
617. To Wear the Mantle Under One's Right Armpit with the End Over One's Left Shoulder (*Iḍṭibā'*), 495
618. To Walk Proudly While Going Round the *Ka'bah* (*Raml*), 496
619. Supplication While Going Round the *Ka'bah*, 498

620. To Observe Circumambulation after the Afternoon Prayer, 499
621. The Circumambulation of a Pilgrim who Performs the *Qirān*, 499
622. *Al-Multazam*, 500
623. On *Al-Ṣafā'* and *al-Marwah*, 501
624. The Narrative of the *Ḥaij* Performed by Prophet (may peace be upon him), 502
625. The Stationing at 'Arafah, 507
626. Going out towards *Minā*, 508
627. Proceeding for 'Arafah, 508
628. To Proceed Towards 'Arafah, 509
629. The Recitation of Sermon at 'Arafah, 509
630. The Place of Stationing at 'Arafah, 510
631. The Return from 'Arafah, 510
632. Prayer at a *Muzdalifah*, 511
633. Early Return from *Muzdalifah*, 514
634. The Day of the Greater *Ḥajj* (*al-Ḥajj al-Akbar*), 515
635. The Sacred Months (*Ashhar al-Hāram*), 516
636. On A Pilgrim Who Does Not Halt in 'Arafah, 516
637. On Coming Over to *Minā*, 517
638. On Which Day Address Should be Given at *Minā*, 518
639. The View that the Prophet Delivered an Address on the Day of Sacrifice (the 10th of *Dhū al-Hijjah*) at *Minā*, 518
640. At What Time the Address Should be Given on the Day of Sacrifice, 519
641. What Should the *Imām* Mention in His Address at *Minā*, 519
642. Passing Nights at Mecca during the Period of Staying at *Minā*, 519
643. The Prayer at *Minā*, 520
644. Shortening of Prayer by the People of Mecca (on the Occasion of *Ḥajj*), 521
645. Throwing Pebbles at the *Jamrahs* (Pillars at *Minā*), 521
646. Shaving and Clipping the Hair, 524
647. Performing '*Umrah*, 526
648. On A Woman Who Raises Her Voice in the *Talbiyah* for *Umrah* When She Wears *Ihrām*, but She Menstruates, then the Time of *Ḥajj* Comes, She Abandons '*Umrah* and Wears *Ihrām* for *Ḥajj*, Should She Atone for '*Umrah*, 528
649. Staying during '*Umrah*, 529
650. The Obligatory Circumambulation (*Tawāf al-Ifādah* or *Tawāf al-Ziyārah*), 529
651. Departure, 531
652. A Menstruating Woman may Depart after Performing the Obligatory Circumambulation (*Tawāf al-Ifādah*), 531



- 653. The Circumambulation at the Time of Departure (*Ṭawāf al-Waddā'*), 532
- 654. Alighting at al-Muḥaṣṣab, 533
- 655. On Change in the Order of the Rites of *Ḥajj*, 534
- 656. On Praying at Mecca, 535
- 657. The Sacred Territory of Mecca, 535
- 658. Public Supply of *Nabīdh* during *Ḥajj*, 536
- 659. Staying at Mecca, 537
- 660. To Offer Prayer inside the Ka'bah, 537
- 661. To Offer Prayer in al-Ḥijr al-Ḥaṭīm, 538
- 662. Entering the Ka'bah, 538
- 663. On the Property of the Ka'bah, 539
- 664. On Visiting Medina, 540
- 665. The Sacred Territory of Medina, 540
- 666. Visiting Graves, 542

V. KITĀB AL-NIKĀḤ (*Book of Marriage*), pp. 544-584

- 667. Exhortation to Marriage, 544
- 668. Marrying A Religious Woman is Preferable, 544
- 669. On Marrying Virgins, 545
- 670. Prohibition of Marrying Women who do not Give Birth to Children, 545
- 671. The Pronouncement of Allah—The Adulterer Shall not Marry Save an Adulteress, 546
- 672. On A Person Who Sets His Slavegirl free, then Marries Her, 547
- 673. What is Unlawful by Reason of Consanguinity is Unlawful by Reason of Fosterage, 547
- 674. Fosterage on the Part of Father, 548
- 675. Sucking by A Man of Age, 548
- 676. Unlawfulness of A Man of Age by Reason of Fosterage, 549
- 677. Does Suckling Less than Five Times Make Marriage Unlawful, 550
- 678. On Giving A Reward to the Nurse at the Time of Weaning, 551
- 679. On Women whose Combination in Marriage is Unlawful, 551
- 680. Temporary Marriage, 554
- 681. *Shighār* Marriage, 554
- 682. To Marry A Divorced Woman for Making Her Lawful for Her Former Husband (*Tahīl*), 555
- 683. On the Marriage of a Slave without the Permission of His Masters, 556
- 684. Disapproval of Seeking the Hand of A Woman in Marriage when Another Man has Already Sought Her Hand in Marriage, 556
- 685. On A Man who Looks at a Woman Whom He Asks in Marriage, 557

- 686. Guardian in Marriage, 557
- 687. Prevention of a Guardian from Marriage, 558
- 688. The Case when two Guardians Marry a Woman, 558
- 689. The Pronouncement of Allah . . . It is not Lawful for you Forcibly to Inherit the Woman nor (that) Ye should Put Constraint upon Them, 559
- 690. To Ask Permission of A Woman for Her Marriage, 560
- 691. On A Virgin Married by Her Father Without Asking Her Permission, 561
- 692. On the Marriage of a Non-Virgin, 561
- 693. Equality in Marriage, 562
- 694. On Marrying A Child Before Its Birth, 563
- 695. The Dower, 564
- 696. The Minimum Amount of Dower, 565
- 697. Marriage for a Work to be Performed by the Husband, 566
- 698. On A Man Who Married but Did Not Fix the Dower until He Died, 566
- 699. The Address of the Marriage, 568
- 700. Marriage in Childhood, 569
- 701. On Staying with a Virgin Wife, 569
- 702. On A Man who has Sexual Intercourse with His Wife Before Giving Her Something, 570
- 703. What Should be Said to a Bridegroom after His Marriage, 571
- 704. On A Man who Marries a Woman whom He Finds Pregnant, 571
- 705. Division of Time among One's Wives, 572
- 706. On A Man who Stipulates at the Time of Marriage that He Will not Take His Wife outside the City and that He Will Stay with Her at the Same Place, 573
- 707. The Right of Husband Over His Wife, 574
- 708. The Right of A Woman Over Her Husband, 574
- 709. On Beating Women, 575
- 710. The Commandment of Casting Down Eyes, 576
- 711. To have Intercourse with the Female Captives of War, 577
- 712. Miscellaneous Problems Relating to Marriage, 579
- 713. To Have Intercourse with a Menstruating Woman and Lying with Her, 580
- 714. Expiation for Cohabitation with a Menstruating Woman, 581
- 715. Withdrawing the Penis while Cohabiting with One's Wife, 581
- 716. Disapproval of Spreading the Secrets of Intercourse to Others, 583

## VI. KITĀB AL ṬALĀQ (*Book of Divorce*), pp. 585-630

### *The Rules of Law About Divorce*

- 717. On A Man who Incites a Woman against her Husband, 585
- 718. On A Woman who Asks a Man to Divorce His Wife in Order to Marry Her, 585

- 719. On the Abomination of Divorce, 585
- 720. Divorce According to the *Sunnah*, 586
- 721. On A Person who Takes His Wife Back in Marriage, but Does Not Call Anyone to Witness, 588
- 722. On the Approved Method of Divorce by A Slave, 588
- 723. On Divorce before Marriage, 589
- 724. Divorce in Anger or under Duress, 590
- 725. Divorce in Jest, 590
- 726. Invalidity of Taking Wife back in Marriage after Three Pronouncements of Divorce, 593
- 727. On Allusions of Divorce and on Intentions, 593
- 728. On Giving Option to Wife, 594
- 729. On Saying Your Matter is in Your Hand to Wife, 594
- 730. On Absolute Divorce, 595
- 731. On A Motion of Divorce, 596
- 732. On A Man who Addresses His Wife as My Sister, 596
- 733. On *Zihār* (To Consider Intercourse with Wife as Unlawful as Intercourse with One's Mother), 597
- 734. Separating from Wife for Compensation (*Khul'*), 600
- 735. On A Slave Woman who is Emancipated while She is the Wife of a Free Man or a Slave, 601
- 736. The View that Barīrah's Husband was a Free Man, 602
- 737. How Long will the Choice be Valid, 602
- 738. On Two Slaves who are Emancipated Together; will his Wife have the Right of Choice, 602
- 739. On Giving Choice in Case One of the Spouses Embraces Islam, 603
- 740. If Husband Embraces Islam Later on Till what Time can Wife be Restored to Him, 603
- 741. On A Man Who Embraces Islam while He Has More Than Four Wives or Two Sisters, 604
- 742. When One of the Parents Embraces Islam, Who Will Take the Children, 604
- 743. Invoking Curses (*Li'ān*), 605
- 744. What Should a Man Do when the Child is Doubtful, 611
- 745. Admonition for Disowning a Child, 611
- 746. On the Claim of an Illegitimate Child, 612
- 747. On Tracing Relationship from Physical Features, 612
- 748. The View that Lots Should be Cast when the Child is Disputed, 613
- 749. On Various Kinds of Marriage which the Arabs in the Pre-Islamic period Practised, 614



- 750. The Child is Attributed to the One on Whose Bed It is Born, 615
- 751. Who is More Entitled to the Custody of a Child, 616
- 752. On the Waiting Period of A Divorced Woman, 618
- 753. Abrogation of Certain Injunctions relating to the Waiting Period for the Divorced Woman, 618
- 754. On Taking Back a Divorced Woman in Marriage, 619
- 755. On the Maintenance of a Woman who Has been Divorced Absolutely, 619
- 756. Those who Objected to the Tradition of Fāṭimah, 622
- 757. A Woman Divorced Absolutely may Go Out of the House in the Day, 623
- 758. Abrogation of Providing Sustenance to a Widow due to Prescription of Her Share in the Inheritance of Her Late Husband, 623
- 759. Mourning of a Woman whose Husband has Died, 624
- 760. On Shifting of a Woman whose Husband Died during Her Waiting Period, 625
- 761. The View that a Woman whose Husband Dies may Shift to Another House during Her Waiting Period, 625
- 762. The Things from Which a Widow should Abstain, 626
- 763. On the Waiting Period of a Pregnant Woman, 627
- 764. On the Waiting Period of a Slave-mother, 628
- 765. A Husband who has Divorced by three Pronouncements Cannot Take Back His Wife in Marriage until She Marries Another Man, 629
- 766. The Gravity of the Sin of Adultery, 629

#### VII. KITĀB AL-ṢIYĀM (*Book of Fasting*). pp. 631-683

- 767. Beginning of the Prescription of Fasting, 631
- 768. Abrogation of the Verse—"For those Who Can Do It (with Hardship) is a Ransom," 632
- 769. The View that the Payment of Ransom for Fasting has not been Repealed: It Applies to the Aged and the Pregnant Women, 633
- 770. The Month Sometimes Consists of Twenty-nine Days, 633
- 771. The Law about A Situation when the People are Mistaken in Sighting the New Moon, 635
- 772. Laws about the Moon of Ramaḍān when the Weather is Cloudy, 636
- 773. The View that If the Weather is Cloudy on the Twenty-ninth of Ramaḍān, then Complete Thirty Fasts, 636
- 774. Fasting during the Month of Sha'bān before the Advent of Ramaḍān, 637
- 775. The Rule of Law in Case the Moon is Sighted in a City a Night before It was Sighted in Other Cities, 638
- 776. Abomination of Fasting on the Day when the Visibility of Moon is Doubtful, 639

777. On A Man who Fasts for Sha'bān and Combines It with Ramaḍān, 639
778. Abomination of Fasting Towards the End of Sha'bān, 640
779. Witness of Two Persons to the Visibility of the Moon of Shawwāl, 641
780. Witness of a Single Person to the Appearance of the Moon of Ramaḍān, 642
781. Emphasis on Taking a Meal Shortly before Dawn before Fasting during Ramaḍān, 643
782. Those Who Call Eating Shortly Before Dawn Morning Meal, 643
783. The Time of Taking a Meal Shortly before Dawn, 643
784. On A Man who Hears the Call to Prayer while He Has a Vessel in his Hand, 645
785. Time for Breaking the Fast, 645
786. On Commendation of Hastening to Break the Fast, 646
787. The Things with Which One should Break One's Fast, 646
788. Uttering Prayer at the Time of Breaking the Fast, 647
789. To Break Fast before Sunset, 647
790. Perpetual Fasting, 647
791. Backbiting by a Man who is Fasting, 648
792. The Use of a Tooth-stick by a Man Who is Fasting, 641
793. Can A Man who is Fasting Pour Water over His Head due to Thirst and Snuff Water Abundantly to His Nostrils, 649
794. Can A Man who is Fasting Cup Himself, 650
795. Permission for Cupping while a Man is Fasting, 651
796. On A Man who is Fasting and Has a Nocturnal Omission during Ramaḍān, 651
797. Applying Collyrium by a Man who is Fasting at Time of Sleep, 652
798. Intentional Vomiting by a Man who is Fasting, 652
799. On Kissing by a Man who is Fasting, 653
800. On A Man who Swallows the Saliva while He is Fasting, 654
801. Disapproval of Embracing Wife by a Youth who is Fasting, 654
802. On A Man who is Fasting Gets up in the Morning while He is Sexually Defiled during the Month of Ramaḍān, 654
803. On the Expiation by a Man who Has Sexual Intercourse with His Wife during Ramaḍān, 655
804. Remonstrance for a Man who Breaks His Fast Intentionally, 657
805. On A Person who Eats in Forgetfulness while He is Fasting, 657
806. Delay in Atoning for Fasts not Observed in Ramaḍān is Due from Him, 658
807. On A Person who Dies when some Fast of Ramaḍān is due from Him, 658
808. Fasting while on a Journey, 659
809. It is Preferable to Break Fast while on a Journey, 660
810. The View that It is Preferable to Keep Fast while on a Journey, 660
811. When Should the Traveller Start Breaking His Fast when He Goes Out, 661

812. The Distance of a Journey where A Traveller is Permitted to Break His Fast, 662
813. On A Person who Says : I Fasted the Whole of Ramaḍān, 662
814. Fasting on 'Īd al-Fiṭr and 'Īd al-Aḍḥā, 663
815. Fasting on the Days of *al-Tashrīq*, 663
816. Prohibition of Fasting exclusively on Friday, 664
817. Prohibition of Fasting particularly on Saturday, 665
818. Permission for Fasting on Saturday, 665
819. On Voluntary Perpetual Fasting, 665
820. Fasting during Sacred Months, 667
821. Fasting during the Month of Muḥarram, 668
822. Fasting during Rajab, 668
823. Fasting during Sha'bān, 668
824. Fasting during Shawwāl, 668
825. Fasting for Six Days During Shawwāl, 669
826. How Did the Prophet (may peace be upon him) Keep Fasts. 669
827. Fasting on Monday and Thursday, 670
828. Fasting during the First Ten Days of Dhū al-Ḥijjah, 670
829. Not to Keep Fast during the First Ten Days of Dhū al-Ḥijjah, 671
830. Fasting on the Day of 'Arafah (i.e. 9th of Dhū al-Ḥijjah) at 'Arafah. 671
831. Fasting on the Day of 'Āshūrah, 672
832. The View that the 9th of Muḥarram is 'Āshūrah, 673
833. Excellence of Fasting on the Day of 'Āshūrah, 673
834. Fasting Every Second Day, 674
835. Fasting Three Days Every Month, 674
836. The View that Fasting on Monday and Thursday is Commendable, 675
837. The View that One may Keep Fast Any Day of the Month, 675
838. Intention for Fasting, 675
839. Intention for Fasting is not Necessary, 676
840. The View that Atonement for Breaking a Voluntary Fast is Necessary, 676
841. On A Woman who Fasts without the Permission of Her Husband, 677
842. Inviting A Man who is Fasting to a Marriage Banquet, 678
843. Retirement to the Mosque (*I'tikāf*), 679
844. Where *I'tikāf* should be Observed, 680
845. A Man who Observes *I'tikāf* is Allowed to Enter His House to Fulfil his Human Needs, 680
846. On Visiting a Patient by a Person who is Observing *I'tikāf*, 682
847. A Woman who Has a Flow of Blood Coming from a Vein may Observe *I'tikāf* (in the Mosque), 683



VIII. KITĀB AL-JIHĀD (*Book of Jihād*), pp. 684-776*Struggle in the Path of Allah to Promote the Cause of Islam*

- 848. On Emigration and Desert Life, 684
- 849. Has Migration Ended, 685
- 850. On Living in Syria, 686
- 851. On the Eternity of *Jihād*, 687
- 852. Reward for *Jihād*, 687
- 853. On Prohibition from Tourism, 687
- 854. Excellence of Returning Home from an Expedition, 687
- 855. Excellence of Fighting the Romans Over against other Communities, 688
- 856. Sailing on the Sea while Going on an Expedition, 688
- 858. Excellence of Fighting on the Sea, 688
- 857. Excellence of Killing an Infidel, 690
- 859. Respect to be Shown by Those who Stay at Home to Women of Those who Are Engaged in *Jihād*, 690
- 860. On the Troops of Warriors who Return without Obtaining Booty, 691
- 861. Enhancement of Reward for the Remembrance of Allah in the Path of Allah. The Exalted, 691
- 862. On A Man who Dies while Fighting in *Jihād*, 691
- 863. Excellence of Guarding the Frontier, 692
- 864. On Excellence of Keeping Watch in the Path of Allah, the Exalted, 692
- 865. Abomination of Keeping Away from Fighting in Allah's Path, 693
- 866. Abrogation of the Command for Departure of All into Battle by the Command for Departure of Some People, 694
- 867. Permission for Staying behind from *Jihād* Due to Some Excuse, 694
- 868. What Suffices for *Jihād*, 695
- 869. On Courage and Cowardice, 696
- 870. Explanation of the Qur'ānic Verse: "And Make Not Your Own Hands Contribute to (Your Destruction)," 696
- 871. On Shooting, 697
- 872. On A Person who Fights so that Allah's Word may have Pre-eminence, 698
- 873. On the Excellence of Martyrdom, 698
- 874. Acceptance of the Intercession of a Martyr, 699
- 875. On the Visibility of Light at the Martyr's Grave, 699
- 876. Fighting on Wages, 700
- 877. Permission for Taking Wages, 700
- 878. On A Person who Takes a Hireling to Fight on His Behalf in the Battle, 701
- 879. On A Person who Fights without the Consent of His Parents, 701

- 380. Women May Fight in the Path of Allah, 702
- 881. Fighting Along with the Tyrant Rulers, 702
- 882. On A Person who Rides on the Riding Beast of Another Man to Fight in the Path of Allah, 703
- 883. On A Man who Fights in the Path of Allah Seeking Reward and Booty, 703
- 884. On A Man who Sells out His Soul (for the Pleasure of Allah), 704
- 885. On A Man who Embraces Islam and is Killed on the Same Spot in the Path of Allah, the Exalted, 704
- 886. On A Person who is Killed with His Own Weapon, 705
- 887. Prayer at the Beginning of Fighting, 705
- 888. On A Person who Asks Allah for Martyrdom, 706
- 889. Disapproval of Clipping the Forelocks and Tails of Horses, 706
- 890. Colours Appreciated for the Horse, 707
- 891. Can A Mare be Called a Horse, 707
- 892. The Horses which are Disapproved, 707
- 893. Commandment of Proper Care of the Animals and Beasts, 707
- 894. Staying on the Stations, 708
- 895. To Garland the Horses with Bowstrings, 708
- 896. Proper Care of the Horses, Tying Them and Rubbing Down Their Rumps, 709
- 897. Hanging Bells (in the Necks of Horses and Camels), 709
- 898. Prohibition of Riding a Beast which Eats Dung, 709
- 899. On A Man who Names His Beast, 710
- 900. Calling the Warriors at the Time of Departure by Saying: "O Cavalry of Allah, Ride," 710
- 901. Prohibition from Cursing a Beast, 710
- 902. Prohibition from Provocating the Beasts for Fighting, 710
- 903. On Branding the Beast, 711
- 904. Prohibition from Branding and Striking the Face of the Animals, 711
- 905. Prohibition of Making Asses Cover Mares, 711
- 906. Three Persons Riding a Beast, 711
- 907. To Remain Staying on a Beast, 712
- 908. On Side Camels, 712
- 909. On Going Quickly and Prohibition from Staying at the Roads at Night, 713
- 910. Travelling by Night, 713
- 911. The Master of the Beast is more Entitled to Ride in Front, 713
- 912. To Hamstring the Beast in the Battle, 714
- 913. Racing for Wager, 714
- 914. Racing on Foot, 715
- 915. On Entering a Horse with two Other Horses in a Race for Wager, 715

916. On Taking an Additional Horse behind One's Horse to Urge It On in a Horse Race, 715
917. Embellishment of the Sword with Silver, 716
918. Entering the Mosque-with an Arrow, 716
919. Prohibition of Handing the Drawn Sword, 717
920. Prohibition of Cutting a Piece of Leather between Two Fingers, 717
921. Wearing Coats of Mail, 717
922. On Standards and Banners, 717
923. To Ask for Assistance (from Allah) through Low and Weak Persons, 718
924. On A Man who Pronounces the War-cry Loudly, 718
925. What a Man should Say when He Proceeds on a Journey, 718
926. Supplication to be Made at the Time of Saying Farewell to a Man, 719
927. Supplication to be Made by a Man at the Time of Riding a Beast, 719
928. What a Man Says when He Alights at a Station (Encamps), 720
929. Disapproval of Travelling in the Beginning of the Night, 720
930. On Which Day Travelling is Commendable, 720
931. Travelling in Early Hours of the Day, 721
932. On A Man who Travels Alone, 721
933. The Company of Travellers Should Appoint One of Them as Their Commander, 721
934. Carrying Copy of the Qur'ān to Enemy Territory, 721
935. The Number of People Advisable in Armies, Companions and Expeditions, 722
936. On Summoning Unbelievers to Islam, 722
937. Burning Enemy Territory, 723
938. On Sending Spies, 724
939. On A Traveller who Eats Dates from Trees when He Passes Them and Drinks Milk of Animals when He Passes Them, 724
940. The View that a Man may Eat what has Fallen from the Tree, 725
941. The View that One should not Milk Animals without Permission of the Master, 725
942. On Obedience, 725
943. Command of Keeping Army Close Together, 726
944. Desire to Meet Enemy is Disapproved, 727
945. Supplication at the Time of Meeting Enemy, 727
946. To Summon Polytheists to Islam before Battle, 727
947. On War Tricks, 728
948. To Attack Enemy at Night, 729
949. On Keeping of the Commander to the Rear, 729
950. On which Basis Polytheists Should Be Fought, 729

951. Prohibition from Killing a Man who Seeks Protection by Making a Prostration, 730
952. Flying from Enemy in a Battle, 731
953. On A Captive Being Compelled on Disbelief, 732
954. On A Muslim who Works as a Spy for Unbelievers, 733
955. On Spying by a Protected Man, 733
956. On A Spy who Got Protection in Muslim Territory, 734
957. At What Time is it Commendable to Fight with Enemy, 735
958. To Keep Silence at the Time of Fighting, 735
959. On A Man who Comes Down from His Mount while Fighting, 735
960. A Man's Pride when Fighting, 735
961. On A Man who is Taken Prisoner, 736
962. On Lying in Ambush, 737
963. To Draw up in Rows, 737
964. To Draw Swords when Fighting, 738
965. Single Combat, 738
966. Prohibition of Mutilation, 738
967. On Killing Women, 739
968. Abomination of Burning Enemy with Fire, 740
969. On A Person who Rents His Riding Beast for Half or Full Share of Booty, 740
970. On A Captive who is Tied with a Chain, 741
971. Abusing and Beating a Captive, 742
972. A Captive Should not be Forced to Embrace Islam, 743
973. On Killing a Captive when Islam is not Presented to Him, 743
974. Killing a Prisoner in Confinement, 745
975. To Kill a Captive with an Arrow, 745
976. Favouring a Captive by Setting Him Free without Taking any Ransom, 745
977. To Set a Prisoner of War Free by Taking Ransom, 746
978. The Ruler Should Stay in Battlefield when He Overpowers Enemy, 748
979. Separation between Prisoners, 749
980. Permission of Separation between Adults, 749
981. On Property Taken Away by Enemy from Muslims and then Its Owner Finds It in Booty, 750
982. On Slaves of Unbelievers who Join Muslims and Embrace Islam, 750
983. Permission for Using Food of Enemy in Their Territory, 761
984. Prohibition of Taking Property from Booty before Its Distribution during Scarcity of Food in Enemy Territory, 751
985. On Carrying Food from Enemy Territory, 752

- 986. On Selling Food when It is Surplus from the Needs of the People in Enemy Territory, 752
- 987. To Benefit from an Article of Booty before its Division, 753
- 988. Permissibility of Using the Weapons of the Enemy to Fight in the Battlefield, 753
- 989. Gravity of Appropriating the Spoils of War Dishonestly, 753
- 990. The Muslim Ruler may Ignore Misappropriation of a Trifling Article Belonging to Booty, and He may not Burn the Equipment of the Person Concerned, 754
- 991. Punishment for Dishonesty regarding Booty, 755
- 992. Prohibition of Concealing a Man who is Dishonest about Booty, 756
- 993. On Giving the Spoils as a Reward to the Person who Kills (an Infidel in Battle), 756
- 994. The Muslim Ruler may not Give the Spoils of the Slain to the Killer if He Thinks so, the Horse and Weapons are Part of the Spoils, 757
- 995. All the Spoils of the Slain will Go to the Killer, and It will not be Subject to Division into Fifths, 758
- 996. The View that Spoils may be Given to a Person who Kills a Wounded Infidel, 758
- 997. He Who Comes after the Division of Booty will not Receive a Share, 758
- 998. On Allotting a Portion from the Booty to a Woman and a Slave who Participate in Battle, 760
- 999. Should A Polytheist be Given a Share from the Booty if He Accompanies Muslims in the Battle, 761
- 1000. On Allotting Two Portions for the Horse of a Rider from the Booty, 762
- 1001. The View that One Portion Should be Given to the Horse, 762
- 1002. On Giving a Reward to a Fighter by the Muslim Ruler, 763
- 1003. On Giving Something Additional as a Reward to a Detachment of the Army, 764
- 1004. The View that the Fifth of the Booty may be Deducted before Giving the Reward, 766
- 1005. On a Detachment which Returns to the Army, 767
- 1006. On Giving Reward from Gold and Silver and from Booty, 769
- 1007. On Taking Something from Booty by a Muslim Ruler for Himself, 769
- 1008. On Fulfilling a Covenant, 770
- 1009. Alliance made by A Muslim Ruler should be Fulfilled by Muslims, 770
- 1010. If There is A Covenant between Muslims and Their Enemy, Can A Muslim Ruler go towards His Country, 771
- 1011. On Fulfilling a Covenant with the Contracting Party and Respect for Protection given to Them, 772
- 1012. On Messengers, 772

- 1013. On A Woman Granting Protection to a Non-Muslim, 772
- 1014. To Conclude a Treaty of Peace with Enemy, 772
- 1015. On Surprise Approach to Enemy and Their Imitation, 775
- 1016. On Saying 'Allah is Most Great' while Going on Every Rising Piece of Ground, 776
- 1017. Permission for Returning from Battle after it Had been Prohibited, 776
- 1018. On Sending A Man for Giving good Tidings, 777
- 1019. On Giving Something to A Man who Brings Good Tidings, 777
- 1020. Prostration in Gratitude, 778
- 1021. On Coming to One's Family during the Night after Returning from A journey, 779
- 1022. Reception of A Traveller when he Returns from A Journey, 780
- 1023. Desirability of Spending out All the Goods in the Battle by A Warrior when He Returns, 780
- 1024. On Offering Prayer on Return from A Journey, 780
- 1025. Wages of A Distributor of Booty, 781
- 1026. On Trading during Battle, 781
- 1027. On Carrying Weapons to Enemy Territory, 782
- 1028. Settlement in Enemy Territory, 782

#### X. KITĀB AL-ḌAHĀYĀ (*Book of Sacrifice*) pp. 783-797

- 1029. On the Obligation of Sacrifice, 783
- 1030. Sacrifice on Behalf of A Deceased Person, 784
- 1031. On A Man who Shaves His Hair during the First Ten Days of Ḍḥū al-Ḥijjah while He Intends to Sacrifice, 784
- 1032. The Sacrificial Animals that are Recommended, 785
- 1033. On the Age of the Sacrificial Animals, 785
- 1034. Disapproved Sacrificial Animals, 787
- 1035. How Many Persons can Share A Cow and A Camel in Sacrifice, 788
- 1036. On A Goat Sacrificed for A Body, 789
- 1037. A Muslim Ruler should Sacrifice at the Place of Prayer, 789
- 1038. On Storing up the Meat of Sacrifice, 789
- 1039. On Sacrifice of A Traveller, 790
- 1040. Prohibition of Making An Animal a Target for Arrows, and Showing Kindness to An Animal which is Being Slaughtered, 791
- 1041. On Slaughter of the People of the Book, 791
- 1042. On Eating the Flesh of Animals Slaughtered for Vainglory and Pride by the Bedouins, 792



- 1043. On Slaughtering An Animal with A Sharp White Stone (used as Knife Flint), 793
- 1044. On Slaughter of Fallen Animal, 794
- 1045. On Slaughtering An Animal Well, 794
- 1046. On Slaughtering the Embryo, 794
- 1047. On Eating the Meat on Which it is Not Known Whether Allah's Name was Pronounced or Not, 795
- 1048. The 'Atirah, 796
- 1049. The 'Aqīqah, 797

X. KITĀB AL-ŞAID (*Book of Game*). pp. 800-803

- 1050. To Have A Dog for Hunting and Some Other Purposes, 800
- 1051. On Game, 800
- 1052. On Eating the Part Cut Off of An Animal while It is Alive, 803
- 1053. On Pursuing the Game, 803

XI. KITĀB AL-WAŞĀYĀ (*Book of Wills*) pp. 804-813

- 1054. Commandments of Making a Bequest, 805
- 1055. What is Permissible for A Testator to Give as A Bequest from His Property, 805
- 1056. Disapproval of Causing Injury to Anyone by A Will, 806
- 1057. On Execution of Wills, 807
- 1058. Abrogation of Leaving A Will for Parents and Relatives, 807
- 1059. On Making A Will to An Heir, 808
- 1060. Mixing One's Good with the Good of An Orphan, 808
- 1061. On Taking Something from the Property of An Orphan by His Guardian, 808
- 1062. When Does Orphanhood Come to An End, 809
- 1063. Gravity of Consuming the Property of An Orphan by the Executor, 809
- 1064. Proof of the Fact that A Shroud is A Part of Property, 810
- 1065. On A Man who Donates A Thing, then it is Bequeathed to Him or He Inherits It, 810
- 1066. On A Man who Institutes a Religious Endowment, 810
- 1067. On Giving *Ṣadaqah* (Charity) on Behalf of A Deceased, 812
- 1068. On Giving *Ṣadaqah* on Behalf of A Man who Dies without Leaving Any Will, 812
- 1069. If a Non-Muslim who is at War with Muslims Dies, and Leaves a Will and His Heir Embraces Islam, should He Execute His Testation, 813
- 1070. If A Man Dies and Leaves Debt to be Paid by Him, His Creditors will be Asked to Defer Repayment for Some Time and the Heirs will be Treated with Leniency, 813

XII. KITĀB AL-FARĀ'ID (*Book of Shares of Inheritance*) pp. 814-826

- 1071. On Teaching the Shares of Inheritance, 814
- 1072. On the Shares of Those Who Leave no Descendants or Ascendants as Heirs, 814
- 1073. On A Person who has no Children, but has Sisters, 815
- 1074. On the Shares of Children from Inheritance, 815
- 1075. On the Inheritance of Grandmother, 817
- 1076. On the Share of Grandfather from Inheritance, 817
- 1077. On the Shares of Agnates, 818
- 1078. Shares of the Relatives on the Maternal Side, 818
- 1079. Inheritance of A Child of A Woman about whom She Has Invoked A Curse on Herself if She Was Untrue in Declaring He Was not Born Out of Wedlock, 820
- 1080. Can A Muslim Inherit from an Infidel, 820
- 1081. On A Man who Embraces Islam before the Division of the Property, 822
- 1082. Right of Inheritance of the Property of a Freed Slave, 823
- 1083. On A Man who Embraces Islam by the Advice and Persuasion of a Muslim, 823
- 1084. On Selling the Right to Inheritance by a Manumitted Slave, 823
- 1085. On An Infant who Raises Its Voice and then Dies, 823
- 1086. Abrogation of Inheritance by Alliance by the Command of Inheritance by Relationship, 824
- 1087. Alliance, 825
- 1088. The Wife will Inherit from the Blood-wit of Her Husband, 826

## XIII. KITĀB AL-KHARĀJ WAL-FAI' WAL-IMĀRAH

(*Book of Tribute, Spoils & Rulership*), pp. 827-878

- 1089. Rights of the Subjects on a Ruler, 827
- 1090. Asking for the Position of Commander, 827
- 1091. To Put A Blind Man in the Position of Commander, 828
- 1092. Appointment of A Minister, 828
- 1093. Being A Chief of A Tribe, 828
- 1094. On Having A Secretary, 829
- 1095. On Collecting *Zakāt*, 829
- 1096. On Appointing A Successor by A Caliph, 830
- 1097. On Taking the Oath of Allegiance, 830
- 1098. On Giving Provision to the Official Employees, 831
- 1099. Presents for Employees, 831

- 1100. Unfaithful Dealing in *Ṣadaqah*, 832
- 1101. The Duties of a Ruler concerning Public Affairs, and Keeping Himself Away from the People, 832
- 1102. On the Division of *Fai'* (Spoils), 838
- 1103. On Giving Provisions to the Children of the Muslims, 834
- 1104. The Age of A Fighter to Entitle Him to a Share from the Booty, 834
- 1105. Disapproval of Accepting Presents of the Rulers in the Last Days, 835
- 1106. On Registering Names of Persons who Receive Stipends, 836
- 1107. On Appointing a Special Portion in the Property of *Fai'* by the Apostle of Allah (may peace be upon him), 836
- 1108. On the Division of the Fifth Taken by the Prophet (may peace be upon him) from Booty and the Share of His Relatives, 842
- 1109. On the Special Portion of the Prophet (may peace be upon him) Taken Exclusively by Him from the Booty, 847
- 1110. How the Jews were Expelled from Medina, 849
- 1111. On the Story of Banū al-Naḍīr, 851
- 1112. On the Law about the Land of Khaibar, 853
- 1113. A Description of the Conquest of Mecca, 857
- 1114. Description of the Conquest of al-Ṭāif, 858
- 1115. On the Lands of the Yemen, 859
- 1116. Expulsion of the Jews from Arabia, 860
- 1117. Distribution of the Lands of Iraq Conquered by 'Umar and the Lands Conquered by Force, 861
- 1118. On Levying *Jizyah* (Poll-Tax), 862
- 1119. Levying *Jizyah* on Magians, 863
- 1120. Harshness in Taking *Jizyah*, 865
- 1121. On Levying Tithes on Non-Muslim Protected People who Bring Merchandise to the Muslim Country, 865
- 1122. If A Non-Muslim Embraces Islam during the Year, will *Jizyah* be Levied on Him, 867
- 1123. Should A Muslim Ruler Accept the Presents of non-Muslims or Not, 867
- 1124. Bestowing Lands as Fief, 869
- 1125. Bringing Barren Lands under Cultivation, 873
- 1126. On the Purchase of *Khāraj* Land, 875
- 1127. On Land Protected by Muslim Ruler for Public Benefits or by A Man for His Own Use, 877
- 1128. On Buried Treasure and the Levy on It, 877
- 1129. On Digging out Ancient Graves containing Property, 878

XIV. KITĀB AL-JANĀ'IZ (*Book of Funerals*), pp. 879-920

- 1130. Diseases which Serve as Atonement for Previous Sins, 879
- 1131. On A Man who is accustomed to Perform a Good Action, but it is Interrupted by Illness or Journey, 880
- 1132. On Visiting Sick Women, 880
- 1133. On Visiting the Sick, 881
- 1134. On Visiting the Sick who is a Protected Unbeliever, 881
- 1135. To Go on Foot for Visiting the Sick, 882
- 1136. Excellence of Visiting the Sick after Performing Ablution, 882
- 1137. On Frequent Sick Visits, 883
- 1138. On Visiting the Sick who is Suffering from Eyesore, 883
- 1139. On Departing from a Place where Plague has Broken Out, 883
- 1140. On Praying for Recovery of the Sick when One Visits Him, 883
- 1141. Prayer for the Sick during Sick Visit, 884
- 1142. Disapproval of Wishing for Death, 884
- 1143. On A Sudden Death, 885
- 1144. On the Excellence of A Man who Dies of Plague, 885
- 1145. On Clipping Nails and Shaving Pubes by the Sick before His Death, 886
- 1146. To have Good Faith in Allah before One's Death, 886
- 1147. On Purification of the Clothes of a Dying Man, 887
- 1148. What Should be Said Near a Dying Man, 887
- 1149. On Instructing the Dying Man, 887
- 1150. On Closing the Eyes of a Dying Man, 888
- 1151. To Recite the Qur'ānic Verse: "We belong to Allah And to Him do we return, 888
- 1152. The Dead Person should be Covered with a Garment, 888
- 1153. On Reciting Sūrah Yāsīn before a Dying Man, 889
- 1154. To Sit Down when One is Struck with Some Calamity, 889
- 1155. On Condolence, 889
- 1156. To Show Endurance when One is Struck with An Affliction, 890
- 1157. Weeping for the Dead, 890
- 1158. Wailing for the Dead, 891
- 1159. To Prepare Food for the People who Suffered the Calamity of Death of Their Relative, 892
- 1160. On Washing the Martyr, 892
- 1161. On Covering Private Parts of the Dead while Washing Him, 894
- 1162. How to Wash the Dead, 894
- 1163. On Shrouding the Dead, 895

- 1164. On Costly Shroud, 896
- 1165. Shroud of a Woman, 897
- 1166. The Use of Perfume for the Dead, 897
- 1167. Hurrying the Funeral and Disapproval of Withholding the Dead for Long, 897
- 1168. Taking A Bath by A Man who Washes the Dead, 898
- 1169. Kissing the Dead, 898
- 1170. Burying the Dead at Night, 899
- 1171. Shifting the Dead from One Territory to Another and Its Disapproval, 899
- 1172. Rows of the Funeral Prayer, 899
- 1173. Women Accompanying a Bier, 899
- 1174. Excellence of Prayer over the Dead and to Accompany a Bier, 900
- 1175. Carrying Fire with a Bier, 900
- 1176. Standing Up for a Funeral, 901
- 1177. Accompanying the Funeral, while Riding on a Beast, 902
- 1178. Walking before the Funeral, 902
- 1179. Walking Quickly with Funeral, 903
- 1180. The Muslim Ruler should not Pray over A Man who Commits Suicide, 903
- 1181. Prayer over A Man who is Killed as a Result of Punishment of *Hudd*, 904
- 1182. Prayer over A Child, 905
- 1183. Funeral Prayer in the Mosque, 905
- 1184. Burial of the Dead at Sunrise and Sunset, 906
- 1185. When the Funeral Prayer is offered over A Man and A Woman Together, which of Them Should be Placed Forward, 906
- 1186. Where Should the *Imam* Stand when He Leads the Funeral Prayer over the Dead, 907
- 1187. Uttering *Takbirs* during the Funeral Prayer, 908
- 1188. What Should be Recited in the Funeral Prayer, 909
- 1189. Supplication for the Dead, 909
- 1190. Prayer over the Grave, 910
- 1191. Prayer over A Muslim who Dies in the Territory of Polytheists, 911
- 1192. Burying Many Dead Persons Together in a Grave and Marking the Grave, 911
- 1193. If a Grave-digger Finds the Bone, should He Leave that Place, 912
- 1194. Dignig Niche in the Side of the Grave, 912
- 1195. How Many Persons should Enter the Grave to Bury the Dead, 912
- 1196. The Dead should be Placed in the Grave from the Side of His Legs, 913.
- 1197. How Should One Sit near the Grave, 913
- 1198. On Supplication for the Dead When He is Put in the Grave, 913
- 1199. What Should A Man do When his Non-Muslim Relative Dies, 914

- 1200. Digging the Grave Deep, 914
- 1201. Levelling the Graves, 914
- 1202. Begging Pardon for the Dead at the Grave before Returning, 915
- 1203. Disapproval of Slaughtering An Animal at the Grave, 915
- 1204. Praying over the Grave of the Dead after Passing Some Time, 916
- 1205. Building a Structure over the Grave, 916
- 1106. Disapproval of Sitting on a Grave, 917
- 1207. Walking in Shoes between the Graves, 917
- 1208. Removing the Dead from His Place of Burial for Some Happening, 918
- 1209. Praising the Dead, 918
- 1210. Visiting Graves, 919
- 1211. Women Visiting Graves, 919
- 1212. When A Man Visits Graves or Passes by Them, What Should He Say, 919
- 1213. When A Man Wearing *Ihrām* Dies, What should be Done with Him, 920

#### XV. KITĀB AL-AIMAN WA AL-NUDHŪR (*Book of Oaths and Vows*)

pp. 921-943

- 1214. Gravity of the Sin of Swearing False Oaths, 921
- 1215. On A Man who Swears An Oath to Usurp Property of Another Man, 921
- 1216. Gravity of Sin if A Man Takes an Oath at the Pulpit of the Prophet (may peace be upon him), 922
- 1217. Swearing Oath by Things other than Allah, 922
- 1218. Disapproval of Swearing by Fathers, 923
- 1219. Disapproval of Swearing by Faithfulness, 924
- 1220. Futile Oath, 924
- 1221. Allusions in Oaths, 924
- 1222. Swearing by Freeing Oneself from Islam and by A Religion Other than Islam Falsely, 925
- 1223. Swearing by A Man that He will not Eat *Idām* (anything Eaten with Bread), 926
- 1224. Saying the Words "if Allah Wills" while Swearing an Oath, 926
- 1225. How the Prophet (may peace be upon him) Took an Oath, 926
- 1226. It is permissible to Use the Word *Qasam* in Taking an Oath, 927
- 1227. On A Man who Swears that He will Not Take Food, 928
- 1228. Swearing about Breaking Ties of Relationship, 928
- 1229. Swearing a False Oath Intentionally, 929
- 1230. Making Atonement by A Person Breaking His Oath, 930
- 1231. Capacity of a *ṣā'* valid for Making Atonement, 931
- 1232. A Believer Slave to be Freed as Atonement; 931



- 1233. To Say "If Allah Wills" while Swearing after Keeping Silence, 932
- 1234. Disapproval of Making a Vow, 933
- 1235. Vowing for Sin, 934
- 1236. The View that Atonement is Necessary if A Man Vows to Disobey Allah, 934
- 1237. On A Man who Takes a Vow to Pray in Jerusalem, 937
- 1238. Fulfilling a Vow on Behalf of the Dead, 938
- 1239. On A Man who Dies and Fasts are Due from Him, and His Heir Fasts on His Behalf, 938
- 1240. Commandment for Fulfilling the Vow, 939
- 1241. Taking A Vow for Something over which One has no Control, 940
- 1242. On A Man who Vows to Give His Property in Charity, 941
- 1243. On A Man who Vows for a Thing over which He has no Control, 942
- 1244. On A Man who Takes A Vow but Does Not Name It, 943
- 1245. If A Man Takes A Vow in Pre-Islamic Times (when He was A Non-Muslim) and then He Embraces Islam, what Should He Do, 943

**XVI. KITĀB AL-BUYŪ (Book of Commercial Transactions), pp. 944-970**

- 1246. Unprofitable Speech and Swearing have a Place in Business Dealings, 944
- 1247. Obtaining Gold from Mines, 944
- 1248. Avoiding Doubtful Things, 945
- 1249. One who Accepts Usury and One who Pays It, 946
- 1250. Abolition of Usury, 946
- 1251. Swearing while Transacting Business, 947
- 1252. Giving over Weight and Weighing on Payment, 947
- 1253. The Saying of the Prophet (may peace be upon him) the Standard Measure is the Measure of Medina, 943
- 1254. Gravity of not Paying the Debt, 949
- 1255. Delay in Payment of Debt, 950
- 1256. Payment of Debt in a Good Manner, 950
- 1257. Exchange of Money, 950
- 1258. Sale of Ornaments of Sword for Dirhams, 951
- 1259. Exchange of Gold for Silver, 952
- 1260. Sale of Animals for Animals when Payment is Made at a Later Date, 953
- 1261. Permission for Sale of Animals for Animals when Payment is Made at a Later Date, 953
- 1262. Sale of Animals for Animals when Payment is Made on the Spot, 954
- 1263. Sale of Dates for Dates, 954
- 1264. *Muzābana* (Sale of Fruit on the Tree for a Specified Measure of Fruits Not on the Tree), 955

- 1265. Sale of 'Arāyā, 955
- 1266. Amount of 'Arīyah Permitted by the Prophet (may peace be upon him), 956
- 1267. Explanation of 'Arāyā, 956
- 1268. Sale of Fruits before They are Clearly in Good Condition, 957
- 1269. Selling Fruit Years Ahead, 958
- 1270. Aleatory Contracts of Sale, 959
- 1271. Contract of a Forced Person, 960
- 1272. Partnership, 961
- 1273. On A Selling Agent who Opposes the Client, 961
- 1274. On A Man who Conducts Business with the Capital of Another Man without His Permission, 962
- 1275. Partnership in Wages and Labour without Investing Any Capital, 963
- 1276. *Muzārabāh* (Sharecropping), 963
- 1277. Prohibition of Sharecropping, 965
- 1278. Cultivating Land without Permission of Its Owner, 967
- 1279. *Mukhābarah* (Renting Land for a Third and a Quarter of the Produce), 968
- 1280. *Musāqāt* (Lease of a Fruit Tree or an Orchard for Irrigating, Fecundating and protecting Fruit Trees for a Certain Share of the Fruit), 969
- 1281. Assessment of Fruit on Palm-Trees, 970

XVII. KITĀB AL-IJĀRAH (*Book of Wages*). pp. 972-1012

- 1282. Wages of A Teacher, 972
- 1283. Wages of Physicians, 973
- 1284. The Earnings of a Cupper, 974
- 1285. Earnings of Slavegirls, 975
- 1286. The Gift Given to a Soothsayer, 975
- 1287. Taking Hire for a Stallion's Covering, 975
- 1288. On Goldsmiths, 976
- 1289. If A Slave who Possesses Property is Sold, to Whom Does the Property belong, 976
- 1290. Going Out of the City to Meet Marchants, 977
- 1291. Bidding against One Another, 978
- 1292. Prohibition of Selling Goods by Townsman for A Man from the Desert, 978
- 1293. Buying a Sheep whose Udders have been tied up to Gather the Milk in Them and Displeasure of the Buyer with Such a Deal, 979
- 1294. Prohibition of Hoarding, 980
- 1295. Breaking Dirhams (Coins), 981
- 1296. Fixing Prices, 981

1297. Prohibition of Deception, 982
1298. Option of the Two Parties in a Transaction, 983
1299. Rescission of a Sale, 985
1300. Two Transactions Combined in One Bargain, 985
1301. Prohibition of *'Inah* Transaction, 985
1302. *Salam* Transaction (Payment in Advance and Pledge), 986
1303. *Salam* Contract in a Specified Fruit, 987
1304. The Goods of *Salam* Contract Should not be Transferred before Taking Its Possession, 987
1305. Providing Discount in the Case of Crop Damage, 988
1306. Explanation of Blight, 988
1307. Withholding Excess Water, 989
1308. Sale of Excess Water, 990
1309. Sale of Cat, 990
1310. Payments for Dogs, 991
1311. Payment for Wine and Dead Meat, 991
1312. Sale of Foodgrain before Taking Its Possession, 992
1313. On A Man who Says at the Time of Making a Bargain : "There is no Attempt to Deceive," 994
1314. Payment of Earnest Money, 995
1315. On A Man who Sells the Articles which he does not Possess, 995
1316. Imposing a Condition in a Business Transaction, 996
1317. Contractual Obligation of a Slave, 996
1318. If A Man Buys a Slave, and He Employs It and then Finds Defect in Him, the Wages Belong to the Buyer, 997
1319. If Both Parties Differ on the Price of an Article when it is Available, the Statement of the Seller will be Accepted, 997
1320. Pre-emption (Option to Buy Neighbouring Property), 998
1321. On A Man who Becomes Insolvent and a Creditor Finds His *Very* Property with Him, He is more Entitled to It Than Anyone Else, 999
1322. On a Man who Cures a Jaded Animal, 1000
1323. Pledge, 1001
1324. On A Man who Enjoys from the Property of His Child, 1002
1325. An A Man who Finds His *Very* Property with Another Man, 1002
1326. On A *May* who Takes His Right from the Property Deposited with Him under His Custody, 1003
1327. Acceptance of Gifts, 1004
1328. Taking Back A Gift, 1004
1329. Taking A Gift for Fulfilling One's Need, 1004

- 1330. On A Man who Presents A Gift to One of His Children More than Others, 1005
- 1331. A Woman Presenting a Gift without the Permission of Her Husband, 1006
- 1332. Life-Tenancy, 1007
- 1333. Property Given in Life-Tenancy with the Mention of Descendants, 1007
- 1334. Donation of Property to Go to the Survivor, 1009
- 1335. On Compensation for the Loss of or Damage to a Thing Borrowed, 1009
- 1336. On A Man who Damages a Thing of Some Person is Responsible for Returning the Like of It, 1011
- 1337. Damaging of Standing Crop of the People by the Cattle, 1012

### III. KITĀB AL-ZAKĀT

#### [ BOOK OF ZAKĀT ]

##### Chapter 519

##### ZAKĀT<sup>876</sup>

(1551) Abū Hurairah said : When the Apostle of Allah (may peace be upon him) died, and Abū Bakr was made his successor after him, and certain Arab clans<sup>877</sup> apostatised, 'Umar b. al-Khaṭṭāb said to Abū Bakr : How can you fight with the people when the Apostle of Allah (may peace be upon him) had said : I have been commanded to fight with the people until they say : "There is no god but Allah."<sup>878</sup> so whoever says : "There is no god but Allah," he has protected his property and his person from me except for what is due from him,<sup>879</sup> and his reckoning is left to Allah. Abū Bakr replied : I swear by Allah that I will certainly fight with those who make a distinction between prayer and *zakāt*,<sup>880</sup> for *zakāt* is what is due from property. I swear by Allah that if they were to refuse me a rope of camel (or a female kid, according to another version) which they used to pay to the Apostle of Allah (may peace be upon him), I will fight with them over the refusal of it.<sup>881</sup> 'Umar b. al-Khaṭṭāb then said :

876. *Zakāt* is one of the essentials of Islam. There is no difference between prayer and *zakāt* in respect of obligation. It is worthy of remark that *zakāt* carries a sense of devotion and worship ; it is not merely a tax like other secular taxes. According to the Qur'ān, the payment of *zakāt* causes the purification of the heart and the soul and it effects the character of man. It is levied on the rich and paid to the poor. The aim of *zakāt*, *inter alia*, is to annihilate poverty from the Muslim society and to maintain economic justice. In the early phase of Islam *zakāt* was levied by the government, but later on this practice was discontinued, and the people began to pay *zakāt* by themselves to the poor and the needy.

877. They were Ghatafan and Banū Sulaim. They refused to pay *zakāt* to Abū Bakr as they were newly converted to Islam. Abū Bakr resolved to fight them.

878. This shows that a Muslim who utters the credo cannot be killed by a Muslim without any valid reason. Further, Muslims can fight the infidels till they announce : "There is no god but Allah." When they utter this credo, their life and property are as protected as those of the Muslims.

879. This refers to the execution of a Muslim due to some valid reason such as murder and adultery, etc.

880. In respect of obligation there is no distinction between prayer and *zakāt*. One who takes one as obligatory and the other not obligatory is not a Muslim.

881. A rope of a camel or a female kid is not the actual amount of *zakāt*. By this he refers to the minimum amount whatever it might be.

I swear by Allah, I clearly saw Allah had made Abū Bakr feel justified in fighting and I recognised that it was right.<sup>882</sup>

Abū Dāwūd said : This tradition has been transmitted by Rabāḥ b. Zaid from Ma'mar on the authority of al-Zuhri through a different chain of narrators. Some narrators in this version have said the word "a rope of camel". And the version transmitted by Ibn Wahb from Yūnus has the word "a female kid".

Abū Dāwūd said : The version narrated by Shu'aib b. Abī Ḥamzah, Ma'mar and al-Zubaidī from al-Zuhri has : "If they were to refuse me a female kid." The version transmitted by 'Anbasah from Yūnus on the authority of al-Zuhri has "a female kid"

(1552) This tradition has also been transmitted by al-Zuhri through a different chain of narrators. This version has : "Abū Bakr said : Its due is the payment of *zakāt*." He used the word "a rope of a camel".

### Chapter 520

#### PROPERTY ON WHICH ZAKĀT IS PAYABLE

(1553) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying : No *ṣadaqah* (*zakāt*) is payable on less than five camels,<sup>883</sup> on less than five ounces of silver,<sup>884</sup> and on less than five camel-loads<sup>885</sup> (*wasq*).

(1554) Abū Sa'īd al-Khudrī reported the Prophet (may peace be upon him) as saying : There is no *zakāt* payable (on grain or dates) on less than five camel-loads.

882. In the beginning 'Umar and other Companions opposed Abū Bakr, for they thought the people who refused to pay *ṣakāt* were newly converted. They might pay *ṣakāt* in the long run when faith was deepened in their hearts. But Abū Bakr thought that it was most dangerous to show leniency to the people in the observance of the injunctions of Islam in the beginning. Had he not fought them and taken strict measures against them, the people later on would not have held it obligatory. To inculcate its significance in the hearts of the people, he was forced to wage war against them.

883. Five camels is the standard of *ṣakāt* in camels. If a man has four or less than four camels, *ṣakāt* will not be due on them.

884. The Arabic word is *awqiyah* that weighs forty dirhams. Thus five *awqiyah* (ounces) weigh two hundred dirhams. Two hundred dirhams are the standard of *ṣakāt* for silver. If someone has less than two hundred dirhams, no *ṣakāt* will be due on him.

885. The Arabic word is *wasq* which amounts to one camel-load, weighing about six maunds. This is the standard of *zakāt* for grain, dates, fruits and other kinds of agricultural produce. If a man has less than five *wasq* (about thirty maunds) of grain or dates, no *zakāt* will be payable on this quantity. According to Abū Hanīfah, *ṣakāt* will be payable on any quantity of grain, dates or fruits.

One has to pay  $2\frac{1}{2}$  *awqiyah* of gold or silver, and one-tenth of grain or dates and other agricultural produce.



The *wasq* (one camel-load) measures sixty ṣā' in weight.<sup>886</sup>

Abū Dāwūd said: The narrator Abū al-Bukhtarī did not hear traditions from Abū Sa'īd al-Khudrī.

(1555) Ibrāhīm said: The *wasq* contained sixty ṣā's stamped with the stamp of al-Ḥajjāj.

(1556) Ḥabīb al-Mālikī said: A man said to 'Imrān b. Ḥuṣain: Abū Nujaid, you narrate to us traditions whose basis we do not find in the Qur'ān. Thereupon, 'Imrān got angry and said to the man: Do you find in the Qur'ān that one dirham is due on forty dirhams (in *zakāt*), and one goat is due on such-and-such number of goats, and one camel will be due on such-and-such number of camels? He replied: No. He said: From whom did you take it? You took it from us, from the Apostle of Allah (may peace be upon him).<sup>887</sup> He mentioned many similar things.

### Chapter 521

#### IF THE PROPERTY IS MEANT FOR TRADE, WILL ZAKĀT BE LEVIED UPON IT?

(1557) Samurah b. Jundub said: The Apostle of Allah (may peace be upon him) used to order us to pay the *qadaqah* (*zakāt*) on what we prepared for trade.<sup>888</sup>

### Chapter 522

#### ON THE MEANING OF *KANZ* (TREASURE) AND ZAKĀT ON JEWELLERY

(1558) 'Amr b. Shu'aib on his father's authority said that his grandfather reported: A woman<sup>889</sup> came to the Apostle of Allah (may peace be upon him) and she was accompanied by her daughter who wore two heavy gold bangles in her hands. He said to her: Do you pay *zakāt* on them? She said: No. He then said: Are you pleased

886. Sixty ṣā's weigh about six maunds.

887. There are many injunctions of Islam that are not found in the Qur'ān. But they are based on the traditions of the Prophet (may peace be upon him). As it is necessary to obey the teachings of the Qur'ān, likewise it is necessary to follow the contents of *Ḥadīth* and *Sunnah*. *Ḥadīth* is the explanation of and commentary on the Qur'ān. Sometimes the contents of a *ḥadīth* are not expressly found in the Qur'ān, yet they do not contradict the spirit and overall teachings of the Qur'ān, provided the *ḥadīth* is genuine.

888. This tradition shows that *zakāt* will be payable on merchandise. This is the view of Mālik, Abū Ḥanīfah, al-Shāfi'ī and Aḥmad. The Zāhirīs hold the view that *zakāt* is not on goods meant for trade.

She was Asmā' daughter of Yazīd b. al-Sakan ('*Awān al-Ma'būd*, II, 4).

that Allah may put two bangles of fire on them ? The narrator ('Abd Allah) said : Thereupon she took them off and placed them before the Prophet (may peace be upon him) saying : They are for Allah and His Apostle.<sup>890</sup>

(1559) Umm Salamah said : I used to wear gold ornaments. I asked : Is that a treasure (*kānz*),<sup>891</sup> Apostle of Allah ? He replied : Whatever reaches a quantity on which *zakāt* is payable is not a treasure (*kānz*) when the *zakāt* is paid.

(1560) 'Abd Allah b. Shaddād b. al-Hād said : We entered upon 'Ā'ishah, wife of the Prophet (may peace be upon him). She said : The Apostle of Allah (may peace be upon him) entered upon me and saw two silver rings in my hand. He asked : What is this, 'Ā'ishah ? I said : I have made two ornaments myself for you, Apostle of Allah. He asked : Do you pay *zakāt* on them ? I said : No ; or I said : Whatever Allah will-ed. He said : This is sufficient for you (to take you) to the Hell-fire.<sup>892</sup>

(1561) The aforesaid tradition has also been narrated by 'Umar b. Ya'lā through a different chain of narrators, like the tradition of ring. Sufyān, a narrator, was asked : How do you pay *zakāt* on it. He said : You may combine it with other (ornaments).

## Chapter 523

### ZAKĀT ON PASTURING ANIMALS

(1562) Ḥammād said : I took a letter from Thumāmah b. 'Abd Allah b. Anas. He presumed that Abū Bakr had written it for Anas when he sent him (to al-Baḥrain) as a collector of *zakāt*. This (letter) was stamped with the stamp of the Apostle of Allah (may peace be upon him) and was written by Abū Bakr for him (Anas). This letter goes : "This is the obligatory *ṣadaqah* (*zakāt*) which the Apostle of Allah (may

890. This tradition shows that *ṣahāṭ* is due on jewellery. This is the view of Abū Ḥanīfah. Mālik, al-Shāfi'ī, Aḥmad and Ishāq hold that no *ṣahāṭ* is payable on jewellery. There is also difference of opinion amongst the Companions on this question.

891. Literally, *kānz* means treasure or a property which is buried in the earth. But here it has been used as a technical term for property liable to *ṣahāṭ* on which *ṣahāṭ* is not paid. This refers to the Qur'ānic verse ix. 34.

892. Scholars differed amongst themselves on the question of the payment of *ṣahāṭ* on jewellery. The Companions Anas b. Mālik, Jābir, Ibn 'Umar, 'Ā'ishah and Asmā' hold the view that *ṣahāṭ* is not payable on jewellery. 'Umar, 'Abd Allah b. Mas'ūd, 'Abd Allah b. 'Umar (according to another version), and Ibn 'Abbās maintained that *ṣahāṭ* is due on jewellery. This is the view held by Ibn al-Musayyib, Sa'īd b. Jubair, 'Aṭā', Ibn Sīrīn, Jābir b. Zaid, Mujāhid, al-Zuhrī, Sufyān al-Thawrī and Abū Ḥanīfah. Mālik b. Anas, Ishāq b. Rahwaih, Aḥmad and al-Shāfi'ī do not think *ṣahāṭ* is due on jewellery. There are four views about this question : (1) *ṣahāṭ* is payable on jewellery ; (2) *ṣahāṭ* is not due on jewellery ; (3) *ṣahāṭ* on jewellery is lending it to others ; (4) *ṣahāṭ* is payable on jewellery only once and not every year. The most authoritative and sound view is that *ṣahāṭ* should be paid on jewellery ('Awn al-Ma'būd, II, 5).

peace be upon him) imposed on Muslims which Allah commanded his Prophet (may peace be upon him) to impose. Those Muslims who are asked for the proper amount must give it, but those who are asked for more than that must not give it. For less than twenty-five camels a goat is to be given for every five camels. When they reach twenty-five to thirty-five, a she-camel in her second year is to be given. If there is no she-camel in her second year, a male camel in its third year is to be given. When they reach thirty-six to forty-five, a she-camel in her third year is to be given. When they reach forty six to sixty, a she-camel in her fourth year which is ready to be covered by a stallion is to be given. When they reach sixty-one to seventy-five, a she-camel in her fifth year is to be given. When they reach seventy-six to ninety, two she-camels in their third year are to be given. When they reach ninety-one to a hundred and twenty, two she-camels in their fourth year which are ready to be covered by a stallion are to be given. When they exceed a hundred and twenty, a she-camel in her third year is to be given for every forty and a she-camel in her fourth year for every fifty (camels)<sup>893</sup> In case the ages of camels vary in the payment of obligatory *ṣadaqah* (*zakāt*): if anyone whose camels reach the number on which a she-camel in her fifth year is payable does not possess one but possesses one in her fourth year, that will be accepted from him along with two goats if he can conveniently give them, or else twenty dirhams. If anyone whose camels reach the number on which a she-camel in her fourth year is payable does not possess but possesses one in her fifth year, that will be accepted from him, and the collector must give him twenty dirhams or two goats. If anyone whose camels reach the number on which a she-camel in her fourth year is payable possesses only one in her third year, that will be accepted from him."

Abū Dāwūd said: From here I could not retain accurately from Mūsā as I liked: "And he must give along with it two goats if he can conveniently give them or else twenty dirhams. If anyone whose camels reach the number on which a she-camel in her third year is payable possesses only one in her fourth year, that will be accepted from him."

Abū Dāwūd said: (I was doubtful) up to here, and retained correctly onward: "and the collector must give him twenty dirhams or two goats. If anyone whose camels reach the number on which a she-camel in her third year is payable does not possess

893. The payment of *ṣakāt* on camels starts from five. On less than five camels there is no *ṣakāt*. On five camels one goat is to be given, on ten camels two goats and on fifteen camels three goats, and so on as mentioned in this tradition. To pay *ṣakāt* on camels by this procedure is the view held by the majority of jurists and traditionists. According to Abū Ḥanīfah, this procedure, as mentioned in this tradition, is applicable up to one hundred and twenty camels. When they exceed one hundred and twenty, the reckoning will start afresh, i.e., one goat is to be given for every five camels up to twenty-five. On twenty-five camels a she-camel in her second year is to be given. The same reckoning will be repeated up to one hundred and twenty.

one but possesses one in her second year, that will be accepted from him, but he must give two goats or twenty dirhams. Anyone whose camels reach the number on which a she-camel in her second year is payable does not possess one but possesses a male camel in its third year, that will be accepted from him, and nothing extra will be demanded along with it. If anyone possesses only four camels, no *zakāt* will be payable on them unless their owner wishes. If the number of the pasturing goats reach forty to one hundred and twenty, one goat is to be given. Over one hundred and twenty up to two hundred, two goats are to be given. If they exceed two hundred reaching three hundred, three goats are to be given. If they exceed three hundred, a goat is to be given for every hundred. An old sheep, one with a defect in the eye, or a male goat is not to be accepted as *ṣadaqah (zakāt)* unless the collector wishes. Those which are in separate flocks are not to be brought together and those which are in one flock are not to be separated from fear of *ṣadaqah (zakāt)*.<sup>894</sup> Regarding what belongs to two partners, they can make claims for restitution from one another with equity.<sup>895</sup> If a man's pasturing animals are less than forty, no *ṣadaqah (zakāt)* is due on them unless their owner wishes. On silver (dirhams) a fortieth is payable, but if there are only a hundred and ninety, nothing is payable unless their owner wishes."

(1563) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) wrote a letter about *ṣadaqah (zakāt)* but could not send it to his governors as he died before it. He kept it combined with his sword. So Abū Bakr acted upon it till he died, and then 'Umar acted upon it till he died. It contained : "For five camels one goat is to be given ; for ten camels two goats are to be given ; for fifteen camels three goats are to be given ; for twenty camels four goats are to be given ; for twenty-five camels to thirty-five a she-camel in her second year is to be given. If the number exceeds by one up to seventy camels, a she-camel in her fourth year is to be given ; if they exceed by one up to seventy-five camels, a she-camel in her fifth year is to be given ; if they exceed by one up to ninety camels, two she-camels in their third year are to be given ; if they exceed by one up to one hundred and twenty, two she-camels in their fourth year are to be given. If the camels are more than this, a she-camel in her

894. Sometimes people used to combine separate flocks and sometimes separate goats of a single flock for the evasion of *zakāt*. This was prohibited by the Prophet (may peace be upon him). A man, for instance, had forty goats in one flock, and forty in another flock. Thus two goats are payable on these two flocks. When the collector comes, he combines both the flocks, and pays only one goat. This is deception. It is, therefore, forbidden. This is the example of combination. It is also prohibited to separate them when combined together in one flock. For instance, two partners have two hundred and one goats in one flock. Thus three goats are payable on them. But when the collector comes, they separate the goats, and thus each of them pays only one goat to him.

895. For instance, two partners have forty sheep in one flock, each owning twenty sheep. The collector takes one sheep on forty sheep. The price of one sheep will be divided between them equally.

fourth year is to be given for every fifty camels, and a she-camel in her third year is to be given for every forty camels. For forty to one hundred and twenty goats one goat is to be given; if they exceed by one up to two hundred, two goats are to be given. If they exceed by one up to three hundred, three goats are to be given; if the goats are more than this, one goat for every hundred goats is to be given. Nothing is payable until they reach one hundred. Those which are in one flock are not to be separated, and those which are in separate flocks are not to be brought together from fear of *ṣadaqah* (*zakāt*). Regarding what belongs to two partners, they can make claims for restitution from one another with equity. An old goat and a defective one are not to be accepted as *ṣadaqah* (*zakāt*)."

Al-Zuhri said: When the collector comes, the goats will be apportioned into three flocks: one containing bad, the other good, and the third moderate. The collector will take *zakāt* from the moderate. Al-Zuhri did not mention the cows (to be apportioned in three flocks).

(1564) The aforesaid tradition has also been transmitted by Sufyān b. Ḥusain through a different chain of narrators and to the same effect. This version adds: "If there is no she-camel in her second year, a she-camel in her third year is to be given." This does not mention the words of al-Zuhri.

(1565) Ibn Shihāb (al-Zuhri) said: This is the copy of the letter of the Apostle of Allah (may peace be upon him) which he had written about *ṣadaqah* (*zakāt*). This was in the custody of the descendants of 'Umar b. al-Khaṭṭāb. Ibn Shihāb said: Sālim b. 'Abd Allah b. 'Umar read it to me and I memorised it properly. 'Umar b. 'Abd al-'Aziz got it copied from 'Abd Allah, 'Abd Allah b. 'Umar and Sālim b. 'Abd Allah b. 'Umar. He (Ibn Shihāb) then narrated the tradition like the former (i.e. up to one hundred and twenty camels). He further said: If they (the camels) reach one hundred and twenty-one to one hundred and twenty-nine, three she-camels in their third year are to be given. When they reach one hundred and thirty to one hundred and thirty-nine, two she-camels in their third year and one she-camel in her fourth year are to be given. When they reach one hundred and forty to one hundred and forty-nine, two she-camels in their fourth year and one she-camel in her third year are to be given. When they reach one hundred and fifty to one hundred and fifty-nine, three she-camels in their fourth year are to be given. When they reach one hundred and sixty to one hundred and sixty-nine, four she-camels in their third year are to be given. When they reach one hundred and seventy to one hundred and seventy-nine, three she-camels in their third year and one she camel in her fourth year are to be given. When they reach one hundred and eighty to one hundred and eighty-nine, two she-camels in their fourth year and two she-camels in their third year are to be given. When they reach one hundred and ninety to one hundred and ninety-nine, three she-camels in their fourth year and one she-camel in her third year are to be given. When they



reach two hundred, four she-camels in their fourth year or five she-camels in their third year, camels of whichever age are available, are to be accepted." For the pasturing goats, he narrated the tradition similar to that transmitted by Sufyān b. Ḥusain. This version adds: "An old goat, one with defect in the eye, or a male goat is not to be accepted as *ṣadaqah* (*zakāt*) unless the collector wishes."

(1566) Mālik said: The statement of 'Umar b. al-Khaṭṭāb (may Allah be pleased with him) "Those which are in separate flocks are not to be brought together, and those which are in one flock are not to be separated," means: Two persons had forty goats each; when the collector came, they brought them together in one flock so that only one goat could be given. The phrase "those which are in one flock are not to be separated" means: If two partners<sup>896</sup> possessed one hundred and one goats each, three goats were to be given by each of them. When the collector came, they separated their goats. Thus only one goat was to be given by each of them. This is what I heard on this subject.

(1567) Al-Ḥārith al-A'war reported from 'Alī. Zuhair said: I think, the Prophet (may peace be upon him) said: "Pay a fortieth. A dirham is payable on every forty, but you are not liable for payment until you have complete two hundred dirhams. When they reach two hundred dirhams, five dirhams are payable, and that proportion is applicable to larger amounts. Regarding sheep, for every forty sheep up to one hundred and twenty, one sheep is due. But if you possess only thirty-nine, nothing is payable on them." He further narrated the tradition about the *ṣadaqah* (*zakāt*) on sheep like that of al-Zuhrī. Regarding cattle, a male calf of a year old is payable for every thirty, and a cow in her third year for forty, and nothing is payable on working animals. Regarding (the *zakāt* on) camels, he mentioned the rates as al-Zuhrī mentioned in his tradition. He said: For twenty-five camels, five sheep are to be paid. If they exceed by one, a she-camel in her second year is to be given. If there is no she-camel in her second year, a male camel in its third year is to be given up to thirty-five. If they exceed by one a she-camel in her third year is to be given up to forty-five. If they exceed by one, a she-camel in her fourth year which is ready to be covered by a stallion is to be given. He then further transmitted the tradition like that of al-Zuhrī. He

<sup>896</sup>. There are some conditions for the validity of partnership of animals in respect of *zakāt*. According to Mālik, if the shepherd, fold, and stallion are common, and their goats pass their night at different places every day, their partnership is valid. Al-Shāfi'ī holds that if the animals had separate folds, the partnership is not valid. Common pasture, fold, bucket for drawing water for them, fold and stallion are necessary for the validity of partnership. Further, Mālik maintains that it is necessary for the validity of partnership that each of them should possess the number of animals on which *zakāt* is payable. Al-Shāfi'ī holds the view that the total number of their animals should constitute the number on which *zakāt* is payable. It matters little if one of them possesses only one goat ('*Awn al-Ma'būd*, II, 8).



continued : If they exceed by one, i.e. they are ninety-one to one hundred and twenty, two she-camels in their fourth year which are ready to be covered by a stallion, are to be given. If the camels are more than that, a she-camel in her fourth year is to be given for every fifty. Those which are in one flock are not to be separated, and those which are separate are not to be brought together. An old sheep, one with a defect in the eye, or a male goat is not to be accepted as a *ṣadaqah* unless the collector is willing. As regards agricultural produce, a tenth is payable on what is watered by rivers or rain, and a twentieth on what is watered by drought camels.

The version of 'Āṣim and al-Ḥārith has : "*Ṣadaqah (zakāt)* is payable every year." Zuhair said : I think he said "Once a year".

The version of 'Āṣim has the words : "If a she-camel in her second year is not available among the camels, nor is there a male camel in its third year, ten dirhams or two goats are to be given."

(1568) 'All reported the Prophet (may peace be upon him) as saying (a part of the beginning of the tradition mentioned above) : "When you possess two hundred dirhams and one year passes on them, five dirhams are payable. Nothing is incumbent on you, that is, on gold, till it reaches twenty *dīnārs*. When you possess twenty *dīnārs* and one year passes on them, half a *dīnār* is payable. Whatever exceeds, that will be reckoned properly." The narrator said : I do not remember whether the words "that will be reckoned properly" were uttered by 'All himself or he attributed them to the Prophet (may peace be upon him). No *zakāt* is payable on property till a year passes on it. But Jarīr said : Ibn Wahb added to this tradition from the Prophet (may peace be upon him) : "No *zakāt* is payable on property until a year passes away on it."<sup>897</sup>

(1569) 'All reported the Apostle of Allah (may peace be upon him) as saying : I have given exemption regarding horses and slaves ; with regard to coins, however, you must pay a dirham for every forty (dirhams), but nothing is payable on one hundred and ninety. When the total reaches two hundred, five dirhams are payable.

Abū Dāwūd said : Al-A'mash transmitted this tradition from Abū Ishāq like the one transmitted by Abū 'Awānah. This tradition has also been narrated by Shaibān, Abū Mu'āwiyah and Ibrāhīm b. Ṭahmān from Abū Ishāq from al-Ḥārith on the authority of 'Alī from the Prophet (may peace be upon him) to the same effect. The tradition reported by al-Nuʿaim has also been narrated by Shu'bah, Sufyān, and others from Abū Ishāq from 'Āṣim from 'All. But they did not attribute it to the Prophet (may peace be upon him). (They transmitted it as their own statement.)

(1570) Bahz b. Ḥakīm reported from his grandfather : The Apostle of Allah (may peace be upon him) said : For forty pasturing camels, one she-camel in her third year

<sup>897</sup>. This refers to gold, silver, and animals. As regards agricultural produce, the passing of a year is not necessary for the payment of *zakāt*.

is to be given. The camels are not to be separated from reckoning.<sup>898</sup> He who pays *zakāt* with the intention of getting reward will be rewarded. If anyone evades *zakāt*, we shall take half the property from him as a due from the dues of our Lord, the Exalted.<sup>899</sup> There is no share in it (*zakāt*) of the descendants of Muḥammad (may peace be upon him).

(1571) Mu'adh said that when the Prophet (may peace be upon him) sent him to the Yemen, he ordered him to take a male or a female calf a year old for every thirty cattle and a cow in its third year for every forty, and one *ḍinār* for every adult (unbeliever as a poll-tax) or cloths of equivalent value manufactured in the Yemen.

(1572) This tradition has also been transmitted by Mu'adh through a different chain of narrators to the same effect.

(1573) Mu'adh b. Jabal said that the Prophet (may peace be upon him) sent him to the Yemen. He then narrated the tradition something similar. He did not mention in this version cloths made in the Yemen nor did he refer to adult (unbelievers).

Abū Dāwūd said: This tradition has been transmitted by Jarīr, Ya'lā, Ma'mar, Abū 'Awānah and Yaḥyā b. Sa'īd, from al-A'mash, from Abū Wā'il, on the authority of Masrūq, and from Ya'lā and Ma'mar on the authority of Mu'adh to the same effect.

(1574) Suwaid b. Ghafflah said: I went myself or someone who accompanied the collector of the Prophet (may peace be upon him) told me: It was recorded in the document written by the Apostle of Allah (may peace be upon him) not to accept a milch goat or she-camel or a (suckling) baby (as *zakāt* on animals), and those which are in separate flocks are not brought together, and those which are in one flock are not to be separated. The collector used to visit the place of drinking water when the sheep went there and say: Pay the *ḡadaqah* (*zakāt*) of your property. The narrator said: A man wanted to give him his camel of lofty hump (*kaumā'*). The narrator (Hilāl) asked: What is *kaumā'*, Abū Šāliḥ? He said: A camel having a lofty hump. The narrator continued: He (the collector) refused to accept it. He said: I wish you could take the best of my camels. He refused to accept it. He then brought forth another camel lower in quality than the previous one. He refused to accept it too. He then brought forth another camel lower in quality than the previous one. He accepted it saying: I take it, but I am afraid the Apostle of Allah (may peace be upon him) might

898. If two partners have their animals together in one flock, they should not separate them to evade *ṣakhāt*. The collector should not levy *ṣakhāt* on them separately. But *ṣakhāt* will be levied on the total, reckoning them together.

899. Al-Shāfi'i and Aḥmad maintained (according to their earlier statement) that if anyone evades *ṣakhāt* half of his property would be confiscated as a fine. But this injunction was valid in the early days of Islam. Later on it was repealed. Now if a man evades *ṣakhāt*, only the amount due, and not more, will be taken from him ('*Awān al-Ma'būd*, II, 13).

get angry with me saying to me : You have purposely taken from a man a camel of your choice.

Abū Dāwūd said : This tradition has also been narrated by Hushaim from Hilāl b. Khabbāb to the same effect. But he said : Those which are in one flock are not to be separated.

(1575) Suwaid b. Ghafīah reported : The collector of the Prophet (may peace be upon him) came to us. I caught hold of his hand and read in the document that goods were not to be combined nor were they to be separated for fear of *zakāt*. There is no mention of milch animals in this tradition.

(1576) Muslim b. Shu'bah said : Nāfi' b. 'Alqamah appointed my father as *charge d'affaires* of his tribe, and commanded him to collect *ṣadaqah* (*zakāt*) from them. My father sent me to a group of them ; so I came to an aged man called Sa'r. I said : My father has sent me to you to collect *zakāt* from you. He asked : What kind of animals will you take, my nephew ? I replied : We shall select and examine the udders of the sheep. He said : My nephew, I narrate a tradition to you. I lived on one of these steppes during the time of the Apostle of Allah (may peace be upon him) along with my sheep. Two persons came to me riding a camel. They said to me : We are messengers of the Apostle of Allah (may peace be upon him) to you so that you may pay the *ṣadaqah* (*zakāt*) of your sheep. I asked : What is due on me for them ? They said : One goat. I went to a goat which I knew was full of milk and fat, and I brought it to them. They said : This is a pregnant goat. The Apostle of Allah (may peace be upon him) prohibited us to accept a pregnant goat. I asked : What will you then take ? They said : A goat in its second year or a goat in its third year. I then went to a goat which did not beget any kid, but it was going to beget. I brought it to them. They said : Give it to us. They took it on the camel and went away.

Abū Dāwūd said : Abū 'Āṣim transmitted this tradition from Zakariyyā. He said : Muslim b. Shu'bah is a narrator in the chain of this tradition as reported by the narrator Rawḥ.

(1577) This tradition has also been narrated by Zakariyyā b. Ishāq through his chain of narrators. In this version Muslim b. Shu'bah said : Shāfi' means a goat which has a baby in its womb.

Abū Dāwūd said : I read in a document possessed by 'Abd Allah b. Sālim at Hims : 'Abd Allah b. Mu'āwiyah al-Ghādirī reported the Prophet (may peace be upon him) as saying : He who performs three things will have the taste of the faith. (They are :) One who worships Allah alone and one believes that there is no god but Allah ; and one who pays the *zakāt* on his property agreeably every year. One should not give an aged animal, nor one suffering from itch or ailing, and one most condemned, but one should give animals of medium quality, for Allah did not demand from you the best of your animals, nor did He command you to give the animals of worst quality.

(178) Ubbay b. Ka'b said: The Apostle of Allah (may peace be upon him) commissioned me as a collector of *zakāt*. I passed a man. When he collected his property (camels), I found that a she-camel in her second year was due on him. I said to him: Pay a she-camel in her second year, for she is to be paid as *ṣadaqah* (*zakāt*) by you. He said: That is not worthy of milking and riding. Here is another she-camel which is young, grand and fat. So take it. I said to him: I shall not take an animal for which I have not been commanded. The Apostle of Allah (may peace be upon him) is here near to you. If you like, go to him, and present to him what you presented to me. Do that; if he accepts it from you, I shall accept it; if he rejects it, I shall reject it. He said: I shall do it. He accompanied me and took with him the she-camel which he had presented to me. We came to the Apostle of Allah (may peace be upon him). He said to him: Prophet of Allah, your messenger came to me to collect *zakāt* on my property. By Allah, neither the Apostle of Allah nor his messenger had ever seen my property before it. I gathered my property (camels), and he guessed that a she-camel in her second year would be payable by me. But that has neither milk nor is it worth riding. So I presented to him a grand and young she-camel for acceptance as a *zakāt*. But he has refused to take her. Lo, she is here; I have brought her to you, Apostle of Allah. Take her. The Apostle of Allah (may peace be upon him) said: That is what is due on you. If you give voluntarily a better (animal) Allah will give reward to you for it. We have accepted her from you. She is here, Apostle of Allah; I have brought her to you. So take her. The Apostle of Allah (may peace be upon him) then ordered to take possession of it, and he prayed for blessing in his property.<sup>900</sup>

(1579) Ibn 'Abbās said: When the Apostle of Allah (may peace be upon him) sent Mu'ādh to the Yemen, he said to him: You are going to a people who are people of the Book. So call them to bear witness that there is no deity but Allah, and that I am the Apostle of Allah. If they obey you in this respect, tell them that Allah has prescribed five prayers on them every day and night. If they obey you in this respect, tell them that Allah has prescribed *ṣadaqah* (*zakāt*) on their property and returned it to their poor. If they obey you in this respect, do not take the best of their property. Beware of the curse of the oppressed, for there is no curtain between it and Allah.<sup>901</sup>

(1580) Anas b. Mālik reported the Apostle of Allah (may peace be upon him) as saying: He who collects more *ṣadaqah* than is due is like him who refuses to pay it.<sup>902</sup>

900. This tradition shows that a collector of *zakāt* should not take more than what is due on a person as *zakāt*. But he can accept more than what is due with the consent and pleasure of the owner.

901. This means that the curse of an oppressed person is answered by Allah quickly, and causes damage to the oppressor. Hence one should avoid oppressing the people.

902. Meaning that the sin committed by both is equally serious.

## Chapter 524

ON PLEASING THE COLLECTOR OF *ZAKĀT*

(1581) Bashīr b. al-Khaṣāṣīyyah said : [Ibn 'Ubaid said in the version of his tradition that his name was not Bashīr, but (it was) the Apostle of Allah—may peace be upon him—(who had) named him Bashīr] : We said : (to the Apostle of Allah) : The collectors of *ṣadaqah* collect more than is due ; can we hide our property to that proportion ? He replied : "No."<sup>903</sup>

(1582) The aforesaid tradition has also been transmitted by Ayyūb through a different chain of narrators to the same effect. This version adds : We said : Apostle of Allah, the collectors of *ṣadaqah* collect more than is due from us.

Abū Dāwūd said : 'Abd al-Razzāq narrated this tradition from Ma'mar attributing it to the Prophet (may peace be upon him).

(1583) Jābir b. 'Atīk reported the Apostle of Allah (may peace be upon him) as saying : Riders who are objects of dislike to you will come to you, but you must welcome them when they come to you, and give them a free hand regarding what they desire. If they are just, they will receive credit for it, but if they are unjust, they will be held responsible. Please them, for the perfection of your *zakāt* consists in their good pleasure, and let them ask a blessing for you.

Abū Dāwūd said : The name of the narrator Abū al-Ghuṣn is Thābit b. Qais b. Ghuṣn.

(1584) Jābir b. 'Abd Allah told of some people, meaning nomadic Arabs, who came to the Apostle of Allah (may peace be upon him), and said : Collectors of *zakāt* come to us and act unjustly. He said : Please those who collect *ṣadaqah* from you. They asked : Even if they wrong us, Apostle of Allah ? He replied : Please those who collect *ṣadaqah* from you. The version of 'Uthmān adds : "Even if you are wronged." Abū Kāmil said in his version : "Jarīr said : No collector of *zakāt* returned from me, since I heard this from the Apostle of Allah (may peace be upon him), but he was pleased with me."

## Chapter 525

BLESSING OF THE COLLECTOR OF *ZAKĀT*  
TO THE PAYERS

(1585) 'Abd Allah b. Abī Awfā said : My father was one of those Companions

<sup>903</sup> He did not allow to hide the property because it was deception and treachery. One could hide property from an honest collector too, if this were allowed.



who took the oath of allegiance at the hand of the Prophet (may peace be upon him) beneath the tree. The Prophet (may peace be upon him) said when the people brought him their *ṣadaqah*: O Allah, bless the family of so and so. When my father brought him his *ṣadaqah*, he said: O Allah, bless the family of Abū Awfā.<sup>904</sup>

### Chapter 526

#### ON THE AGES OF CAMELS

(1586) Abū Dāwūd said; I heard it from al-Riyāshī and Abī Ḥātim, and others, from the collection of al-Naḍr b. Shumail and Abū 'Ubaid. The contents of this tradition were narrated by one of them or the other. The embryo of a camel is called *ḥuwār*; when it is born, it is called *faṣīl*. When it is in its second year it is called *bint makhāḍ* up to the completion of two years. When two years are completed, it is called *ḥiqq* or *ḥiqqah* up to the completion of four years. The reason of this nomenclature is that a she-camel in her fourth year becomes worthy of riding, and worthy of being covered by a stallion. The she-camel becomes worthy of covering, but the male camel does not become worthy of covering till it reaches the age of six years. The *ḥiqqah* is also called *ṭarāqat al-faḥl* because a stallion covers her. This is up to four years. When it is in its fifth year, it is called *jadha'ah* till five years are completed. When it enters its sixth year and weans its front teeth it is called *thanī* till it completes its sixth year. When it enters its seventh year, the male is called *rabā'* and the she-camel is called *rabā'īyyah* till the completion of seventh year. When it enters the eighth year and weans its sixth tooth, it is called *sadīs* and *sadas* till the completion of its eighth year. When it enters its ninth year, it weans the canine teeth, it is then called *bāzil*. that is, it weaned the canine tooth, till it enters the tenth year. It is then called *mukhlif*. There is no further name for it, but it is called *bāzil 'ām* (*bāzil* of one year) and *bāzil 'āmain* (*bāzil* of two years), or *mukhlif ām* and *mukhlif 'āmain* (*mukhlif* of one or two years), and *mukhlif thalāthah a'wām* (three years) up to five years. *Al-khalifah* means a pregnant she-camel.

Abū Ḥātim said: *Judha'ah* refers to a period of time; it does not mean tooth. The time of the ages of camels changes with the rise of Canopus (Suhail). Abū Dāwūd said: Al-Riyāshī recited the following verses: When the Canopus rises at the first night: the male camel in its third year (*ibn laban*) becomes a male camel in its fourth year (*ḥiqq*): and the male camel in its fourth year becomes one in its fifth year (*jadha'un*). There is no age of camel which is not counted (from the rise of Canopus) except *huba'*. *Huba'* is a camel born at a time other than the rise of Canopus (the age

904. This shows that when the people pay their *saka'* to the collector, he should give blessing. This also indicates that it is permissible to invoke blessing on others than the Prophet (may peace be upon him).



of *huba'* is not counted from the rise of Canopus).

### Chapter 527

#### ON THE PLACE WHERE *ZAKĀT* IS TO BE PAID

(1587) 'Amr b. Shu'aib, on his father's authority, said that his grandfather reported the Prophet (may peace be upon him) as saying: There is to be no collecting of *ṣadaqah* (*zakāt*) from a distance, nor must people who own property remove it far away, and their *ṣadaqāt* are to be received in their dwelling.<sup>905</sup>

(1588) Explaining the meaning of *jalab* and *janab* Muḥammad b. Isḥāq said: The meaning of *jalab* is that the *zakāt* of animals should be collected at their places (dwellings), and they (animals) should not be pulled to the collector of *zakāt*. The meaning of *janab* is that the animals are removed at a distance (from the collector). The owners of the animals should do so. The collector of *zakāt* should not stay at a distance from the places of the people who bring their animals to him. The *zakāt* should be collected in its place.<sup>906</sup>

### Chapter 528

#### ON A PERSON WHO BUYS HIS *ZAKĀT* AFTER ITS PAYMENT

(1589) 'Abd Allah b. 'Umar said: 'Umar b. al-Khaṭṭāb (Allah be pleased with him) gave a horse as alms in the way of Allah. He then found it being sold, and intended to buy it. So he asked the Apostle of Allah (may peace be upon him) about this. He said: Do not buy it, and do not take back your *ṣadaqah*.<sup>907</sup>

905. The original Arabic words are *jalab* (to pull) and *janab* (to be far away at a distance). This means that the collector of *zakāt* should not stay at a long distance from the animals. He must not make people bring their animals to him. He should stay near the animals and collect *zakāt*. Similarly the people must not remove their animals to a distance when he is coming to collect *zakāt*. This will put him into hardship.

906. This tradition shows that neither the collector of *zakāt* should put the people to hardship, nor should they harm him. Both the parties should give due consideration to each other.

907. This tradition shows that it is forbidden to buy one's *ṣadaqah*, however cheap it might be. Hence, according to all the jurists, one should not buy one's *ṣadaqah*. In case one buys it, the transaction is valid. If a man receives *ṣadaqah* as his share in inheritance, that is permissible ('*Awam al-Ma'būd*, II, 21).

## Chapter 529

## ZAKĀT ON SLAVES

(1590) Abū Hurairah reported the Prophet (may peace be upon him) as saying: No *ṣadaqah* is due on a horse or a slave<sup>908</sup> except that given at the breaking of the fast<sup>909</sup> (at the end of Ramaḍān).

(1591) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: No *ṣadaqah* is due from a Muslim on his slave or his horse.

## Chapter 530

## ZAKĀT ON AGRICULTURAL PRODUCE

(1592) ‘Abd Allah b. ‘Umar reported the Apostle of Allah (may peace be upon him) as saying: A tenth is payable on what is watered by rain or rivers or brooks, or from underground moisture, and a twentieth on what is watered by draught camels.

(1593) Jābir b. ‘Abd Allah reported the Apostle of Allah (may peace be upon him) as saying: A tenth is payable on what is watered by rivers and brooks, and a twentieth on what is watered by draught camels.

(1594) Wakīf said: *Ba’l* means the agricultural crop which grows by the rain water. Ibn al-Aswad said and Yaḥyā, that is, Ibn Ādam, said: I asked Abū Iyās al-Asadī (about this word *ba’l*). He replied: What is watered by rain.

Al-Naḍr b. Shumail said; *Ba’l* means rain water.

(1595) Mu‘ādh b. Jabal said that when the Apostle of Allah (may peace be upon him) sent him to the Yemen, he said (to him): Collect corn from the corn, sheep from the sheep, camel from the camels, and cow from the cows.

Abū Dāwūd said: In Egypt I saw a cucumber thirteen spans in length and a citron cut into two pieces loaded on a camel like two loads.<sup>910</sup>

## Chapter 531

## ZAKĀT ON HONEY

(1596) ‘Amr b. Shu‘aib, on his father’s authority, said that his grandfather re-

908: If the horse and slave are meant for service no *ṣahāt* is due on them. In case they are meant for trade, *ṣahāt* shall be levied on them.

909. This shows that the *ṣadaqah* at the end of Ramaḍān known as *ṣadaqat al-fitr* shall be paid on behalf of the slaves too as paid on behalf of dependent children.

910. This shows that the *ṣahāt* should be collected in kind on the property on which it is due. If it is not possible to collect *ṣahāt* in kind on a certain kind of property, collecting coins (silver or gold) in lieu of it is permissible.

ported : Hilāl, a man from the tribe of Banū Mat'ān brought a tenth of honey which he possessed in beehives to the Apostle of Allah (may peace be upon him). He asked him (the Apostle of Allah) to give the wood known as Salabah as a protected (or restricted) land. The Apostle of Allah (may peace be upon him) gave him that wood as a protected land. When 'Umar b. al-Khaṭṭāb (Allah be pleased with him) succeeded, Sufyān b. Wahb wrote to 'Umar asking him about this wood. 'Umar b. al-Khaṭṭāb wrote to him : If he (Hilāl) pays you the tithe on honey what he used to pay to the Apostle of Allah (may peace be upon him), leave the protected land of Salabah in his possession ; otherwise those bees are like those of any wood ; anyone can take the honey as he likes.<sup>911</sup>

(1597) 'Amr b. Shu'aib said on his father's authority that his grandfather reported : That was Shabābah,<sup>912</sup> a sub-branch of the tribe Fahm. The narrator then transmitted the tradition something similar. He added : (They used to pay) one bag (of honey) out of ten bags. Sufyān b. 'Abd Allah al-Thaqafī<sup>913</sup> gave them two woods as protected lands. They used to give as much honey (as *zakāt*) as they gave to the Apostle of Allah (may peace be upon him). He (Sufyān) used to protect their woods.

(1598) 'Amr b. Shu'aib said on the authority of his father that his grandfather reported : A sub-branch of Fahm. He then narrated the tradition like that of the narrator al-Mughlrah. This version has : "(They used to give) *sadaqah* out of ten bags (of honey)." He also added : "Two woods of theirs."

### Chapter 532

#### ESTIMATING VINES FOR *ZAKĀT*

(1599) 'Attāb b. Usaib said : The Apostle of Allah (may peace be upon him) commanded to estimate vines (for collecting *zakāt*) as palm-trees are estimated. The *zakāt* is to be paid in raisins as the *zakāt* on palm trees is paid in dried dates.<sup>914</sup>

911. According to Abū Ḥanīfah, Aḥmad and Ishāq, *sahāt* is payable on honey. Mālik and al-Shāfi'i maintain that *sahāt* is not due on honey. They contend that Hilāl's case was voluntary. The protected wood was given to him in lieu of the tithe. This is a majority opinion ('*Awān al-Ma'būd*, II, 23).

912. The clan Shabābah were settled in al-Ṭā'if. They were known for their trade in honey and beekeeping. A good quality of honey is called '*asal shabābī* (*shabābī* honey) after them ('*Awān al-Ma'būd*, II, 23).

913. He was the governor of al-Ṭā'if appointed by 'Umar. The name Sufyān b. Wahb is not correct.

914. As the *sahāt* on dates and vines was collected when the fruits were dried, it was necessary to estimate the total quantity of the produce on the trees. The Prophet (may peace be upon him) used to send a reliable person to estimate the fruits when they were ripe. By estimating the amount of the produce the owner could not deceive in the payment of *zakāt*.

(1600) The above-mentioned tradition has also been narrated by Ibn Shihāb through a different chain of narrators to the same effect.

### Chapter 533

#### ON ESTIMATING THE FRUIT ON TREES

(1601) 'Abd al-Raḥmān b. Mas'ūd said : Sahl b. Abū Ḥathmah came to our gathering. He said : The Apostle of Allah (may peace be upon him) commanding us said : When you estimate take them leaving a third, and if you do not leave or find a third, leave a quarter.<sup>915</sup>

### Chapter 534

#### WHEN PALM-TREES ARE TO BE ESTIMATED

(1602) Describing the conquest of Khaibar 'Ā'ishah said : The Prophet (may peace be upon him) used to send 'Abd Allah b. Rawāḥah to the Jews of Khaibar, and he would make an estimate of the palm trees when the fruit was in good condition before any of it was eaten.<sup>916</sup>

### Chapter 535

#### WHICH FRUITS ARE NOT TO BE ACCEPTED AS ZAKĀT

(1603) Abū Umāmah b. Sahl reported on the authority of his father : The Apostle of Allah (may peace be upon him) prohibited to accept *ja'rur* and *ḥabīq* dates as

915. This means that a third of the estimated amount should be left to the owner, for there may be some error in the estimating of fruits. Further, some fruits are lost and some are eaten by animals. Two interpretations have been given by the commentators for this tradition. First, that one-third or one-fourth should be left from one-tenth of the produce, i.e. from the *sakāt* generally known as *'ushr* ; second, that one-third or one-fourth should be left from the total produce before taking one-tenth. Abū 'Ubaid said that the amount sufficient for the need of the owner should be left for him. Estimating the fruits before collecting *sakāt* on them is necessary according to the majority of the scholars. Abū Ḥanīfah maintains that neither estimating nor leaving one-third is necessary. This might involve usury. These traditions, in his opinion, belong to the period when usury was not forbidden (*'Awn al-Ma'būd*, II, 24).

916. When the Prophet (may peace be upon him) captured Khaibar, he concluded a treaty with the Jews that the lands along with the palm trees would remain in their possession, but they would pay half the produce to the Muslims. Hence 'Abd Allah b. Rawāḥah would go there every year at the time when the dates were ripe, and estimate the produce. He then would collect *sakāt* from them accordingly.

*zakāt*. Al-Zuhrl said : These are two kinds of the dates of Medina.<sup>917</sup>

Abū Dāwūd said : This has also been transmitted by Abū al-Walīd from Sulaimān b. Kathīr from al-Zuhrl.

(1604) 'Awf b. Mālik said : The Apostle of Allah (may peace be upon him) entered upon us in the mosque, and he had a stick in his hand. A man hung there a bunch of *hashaf*.<sup>918</sup> He struck the bunch with the stick, and said : If the owner of this *sadaqah* (alms) wished to give a better one than it, he would give. The owner of this *sadaqah* will eat *hashaf* on the Day of Judgment.<sup>919</sup>

### Chapter 536

#### ZAKĀT FOR THE CLOSING OF FAST AT THE END OF RAMAḌĀN

(1605) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) prescribed the *sadaqah* (alms) relating to the breaking of the fast as a purification of the fasting from empty and obscene talk and as food for the poor.<sup>920</sup> If anyone pays it before the prayer (of 'Īd), it will be accepted as *zakāt*. If anyone pays it after the prayer, that will be a *sadaqah* like other *sadaqahs* (alms).

### Chapter 537

#### WHEN *ṢADAQAḤ* AT THE END OF RAMAḌĀN IS TO BE GIVEN

(1606) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) commanded us that at the end of Ramaḍān when the fasting is closed *sadaqah* (alms) should be paid before the people went out to prayer. 'Abd Allah b. 'Umar used to pay it one or two days before.<sup>921</sup>

917. These were the worst kind of dates of Medina. Hence the Prophet (may peace be upon him) forbade to accept the dates of the lowest quality. It is worthy of remark that the owner should not give property of the lowest quality as *sakāt*. He must offer things of good quality.

918. The worst kind of dates.

919. This indicates that one should give things of good quality as alms in the way of Allah. If one gives things of lower quality as alms, one will have similar reward in the next world.

920. This *sadaqah* (alms) is a sort of expiation for the idle and obscene talk while fasting during Ramaḍān. Moreover, it is also meant to extend financial aid to the poor on the occasion of 'Īd.

921. The majority of the scholars maintain that it is commendable to pay *sadaqat al-fiḥr* before saying 'Īd prayer. This can be paid even after 'Īd prayer till the evening. But it is not valid to postpone it till the next day. The time prescribed for it is between the morning and evening prayers.

## Chapter 538

HOW MUCH *ṢADAQAḤ* SHOULD BE GIVEN AT THE  
END OF RAMAḌĀN

(1607) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) prescribed as *zakāt* payable by slave and freeman, male and female, among the Muslims on closing the fast of Ramaḍān one ṣā'<sup>922</sup> of dried dates or one ṣā' of barley.<sup>923</sup> (This tradition was read out by 'Abd Allah b. Maslamah to Mālik).<sup>924</sup>

(1608) 'Abd Allah b. 'Umar said: The Apostle of Allah (may peace be upon him) prescribed the *ṣadaqaḥ* at the end of Ramaḍān one ṣā'. The narrator then transmitted the tradition like the one narrated by Mālik. This version adds: "Young and old. He gave command that this should be paid before the people went out to prayers."

Abū Dāwūd said: 'Abd Allah al-'Umarī narrated it from Nāfi' through his chain: "on every Muslim." The version of Sa'id al-Jumaḥī has: "Among the Muslims." The well-known version transmitted by 'Ubaid Allah does not mention the words "among the Muslims".

(1609) Ibn 'Umar said: The Prophet (may peace be upon him) prescribed *ṣadaqaḥ* at the end of Ramaḍān one ṣā' of barley and dried dates, payable by young and old, freeman and slave. The version of Mūsā adds: "male and female".

Abū Dāwūd said: The words "male and female" narrated by Ayyūb and 'Abd Allah al-'Umarī were narrated in their version on the authority of Nāfi'.

(1610) 'Abd Allah b. 'Umar said: The people during the lifetime of the Apostle of Allah (may peace be upon him) used to bring forth the *ṣadaqaḥ* at the end of Ramaḍān when closing the fast one ṣā' of barley whose straw is removed, or of raisins. 'Abd Allah said: When 'Umar (Allah be pleased with him) succeeded, and the wheat became abundant, 'Umar prescribed half a ṣā' of wheat instead of all these things.<sup>925</sup>

922. According to the majority of the scholars, the ṣā' in the traditions refers to the ṣā' of Ḥijāz. The Ḥijāzī ṣā' is described as a measure equivalent to five rotls. Abū Ḥanīfah holds that this refers to the 'Irāqī ṣā' which measures eight rotls.

923. The payment of *ṣadaqaḥ* at the end of Ramaḍān is obligatory like *ṣakāt* according to Aḥmad and al-Shāfi'ī. Abū Ḥanīfah takes it as necessary (*wājib*) but not obligatory. Mālik holds that it is recommended (*sunnaḥ*). The condition of Muslims occurring in this tradition shows that this is not to be given on behalf of unbeliever slave. This is the view held by the majority of the jurists. But Abū Ḥanīfah thinks that this should be given on behalf of the unbeliever slave too.

924. It was the wont of Mālik that a tradition was repeated twice. He first read it out to his disciples, and later the disciples read it out to him.

925. Al-Ṭaḥāwī recorded a number of traditions of the Prophet (may peace be upon him) and the opinions and practice of the Companions that half a ṣā' of wheat was paid as *ṣadaqaḥ* at the end of Ramaḍān. The consensus is said to have been established during the caliphate of Abū Bakr,



(1611) 'Abd Allah (b. 'Umar) said: The people then began to pay half a šā' of wheat later on. The narrator said: 'Abd Allah (b. 'Umar) used to pay dried dates as *ṣadaqah*. One year the people of Medina lacked dried dates, hence he paid barley.

(1612) Abū Sa'īd al-Khudrī said: When the Apostle of Allah (may peace be upon him) lived among us, we used to bring forth *zakāt* on closing the fast of Ramaḍān one šā' of grain, or of cheese, or of barley, or of dried dates, or of raisins, payable by every young and old, freeman and slave. We continued to pay this till Mu'āwiyah came to perform *Ḥajj* or *'Umrah* and he spoke to the people on the pulpit. What he said to the people was: I think that two mudds of the wheat of Syria is equivalent to one šā' of dried dates. So the people adopted this. Abū Sa'īd said: But I continued to pay one šā' of wheat as long as I lived on.

Abū Dāwūd said: This tradition has also been transmitted by Abū Sa'īd through a different chain of narrators to the same effect. A man has narrated in this version from Ibn 'Ulayyah one šā' of wheat. But this version is not guarded.

(1613) The aforesaid tradition has also been transmitted by Abū Sa'īd through a different chain of narrators. This version adds: "Half a šā' of wheat." But this is a misunderstanding on the part of Mu'āwiyah b. Hishām and of those who narrated from him.

(1614) Abū Sa'īd al-Khudrī said: I shall always pay one šā'. We used to pay during the lifetime of the Apostle of Allah (may peace be upon him) one šā' of dried dates or of barley, or of cheese, or of raisins. This is the version of Yaḥyā. Sufyān added in his version: "or one šā' of flour." The narrator Ḥāmid (b. Yaḥyā) said: The people objected to this (addition); Sufyān then left it.

Abū Dāwūd said: This addition is a misunderstanding on the part of Ibn 'Uyainah.

### Chapter 539

#### THE VIEW THAT HALF A ŠĀ' OF WHEAT IS TO BE GIVEN AS *ṢADAQAH*

(1615) 'Abd Allah b. Tha'labah or Tha'labah b. 'Abd Allah b. Abū Su'air<sup>926</sup> reported on his father's authority that the Apostle of Allah (may peace be upon him)

'Umar, 'Uthmān and 'Alī on the payment of half a šā' of wheat as *ṣadaqat al-fitr*. This is the view held by Abū Ḥanīfah. Abū Sa'īd, Abū al-'Abyah, Abū al-Sha'tha', al-Ḥasan al-Baṣrī, Jābir b. Zaid, al-Shāfi'ī, Mālik, Aḥmad and Ishāq hold the opinion that one šā' of wheat and also of raisins should be paid as *ṣadaqat al-fitr* and not half a šā' as maintained by Abū Ḥanīfah (*'Awn al-Ma'būd*, II, 28).

926. The name of the Companion is disputed. Further, Abū Dāwūd mentions Ibn Abū Su'air, but others often give Ibn Su'air.

said: One *ṣā'* of wheat<sup>927</sup> is to be taken from every two, young or old, freeman or slave, male or female. Those of you who are rich will be purified by Allah, and those of you who are poor will have more than they gave returned by Him to them.

Sulaimān added in his version: "rich or poor".

(1616) 'Abd Allah b. Tha'labah b. Su'air reported on the authority of his father: The Apostle of Allah (may peace be upon him) stood and gave a sermon; he commanded to give *ṣadaqah*, at the end of Ramaḍān when the fasting is closed, one *ṣā'* of dried dates or of barley payable by every person. The narrator 'All added in his version: "or one *ṣā'* of wheat to be taken from every two." Both the chains of narrators are then agreed upon the version: "payable by young and old, freeman and slave."

(1617) 'Abd Allah b. Tha'labah said (the narrator Aḥmad b. Ṣāliḥ said: He, i.e. 'Abd al-Razzāq, said: He is 'Adawl. Abū Dāwūd said: Aḥmad b. Ṣāliḥ said: He is 'Adhri): The Apostle of Allah (may peace be upon him) delivered a speech before the closing fast ('Id) by two days. He then transmitted the tradition like that of al-Muqrī ('Abd Allah b. Yazīd).

### Chapter 540

(1618) Al-Ḥasan said: Ibn 'Abbās preached towards the end of Ramaḍān on the pulpit (in the mosque) of al-Baṣrah. He said: Bring forth the *ṣadaqah* relating to your fast. The people, as it were, could not understand. Which of the people of Mēdina are present here? Stand for your brethren, and teach them, for they do not know. The Apostle of Allah (may peace be upon him) prescribed this *ṣadaqah* as one *ṣā'* of dried dates or barley, or half a *ṣā'* of wheat payable by every freeman or slave, male or female, young or old. When 'All came (to al-Baṣrah), he found that prices had come down. He said: Allah has given prosperity to you, so give one *ṣā'* of everything (as *ṣadaqah*).

The narrator Ḥumaid said: Al-Ḥasan maintained that the *ṣadaqah* at the end of Ramaḍān was due on a person who fasted.

### Chapter 541

#### PAYMENT OF ZAKĀT IN ADVANCE BEFORE IT FALLS DUE

(1619) Abū Hurairah said: The Prophet (may peace be upon him) sent 'Umar b. al-Khaṭṭāb to collect *ṣadaqah*. (All the people paid *zakāt* but Ibn Jamīl, Khālid b. al-

927. The narrator is not sure which word for wheat was used, so he gives either *burr* or *qama* both meaning wheat.

Walīd and al-'Abbās refused. So the Apostle of Allah (may peace be upon him) said : Ibn Jamīl is not (so much) objecting, but he was poor and Allah enriched him.<sup>928</sup> As for Khālīd b. Walīd, you are wronging him, for he has kept back his coats of mail and weapons to use them in Allah's path.<sup>929</sup> As for al-'Abbās, the uncle of the Apostle of Allah (may peace be upon him), I shall be responsible for it and an equal amount along with it.<sup>930</sup> Then he said : Did you not know ('Umar) that a man's paternal uncle is of the same stock as the father or his father ?

(1620) 'All said : Al-'Abbās asked the Prophet (may peace be upon him) about paying the *ṣadaqah* (his *zakāt*) in advance before it became due, and he gave permission to do that.

Abū Dāwūd said : This tradition has also been transmitted by Hushaim through a different chain of narrators. The version of Hushaim is more sound.

### Chapter 542

#### TRANSFER OF *ZAKĀT* OF ONE CITY TO ANOTHER CITY

(1621) Ibrāhīm b. 'Aṭā', the client of 'Imrān b. Ḥuṣain, reported on the authority of his father : Ziyād, or some other governor, sent 'Imrān b. Ḥuṣain to collect *ṣadaqah* (i.e. *zakāt*). When he returned, he asked 'Imrān : Where is the property ? He replied : Did you send me to bring the property ? We collected it from where we used to collect in the lifetime of the Apostle of Allah (may peace be upon him), and we spent it where we used to spend during the time of the Apostle of Allah (may peace be

928. Several explanations of this sentence have been given by the commentators. It appears best to take it in defence of Ibn Jamīl. This means that his objection to pay *ṣahāṭ* was not so serious as his ingratitude to Allah Who had enriched him. He was poor and after embracing Islam he became rich. Now he has no excuse to refuse the payment of *ṣahāṭ*.

929. This means that it is wrong to demand *ṣahāṭ* from Khālīd when he was already dedicated all his weapons for the cause of Islam. *Zakāt* is not due on him. The other explanation is that when he has given all his weapons in the cause of Allah, how is it possible that he will not pay *ṣahāṭ* which is an obligatory duty ? ('*Awn al-Ma'būd*, II, 32).

930. This has been interpreted in a twofold way. First, the Prophet (may peace be upon him), paid the *ṣahāṭ* on the property of 'Abbās for two years together at a time, as the tradition recorded by Abū Dāwūd al Ṭayālīsī indicates. He used to pay *ṣahāṭ* for two years in advance. Hence no *ṣahāṭ* was due from him as demanded by 'Umar. Second, he might not have paid the *ṣahāṭ* for the year demanded by 'Umar. He, therefore, promised to pay *ṣahāṭ* for two years as usual.

It is disputed whether *ṣahāṭ* can be paid in advance before it falls due. Al-Zuhri, al-Awzā'i, Abū Ḥanīfah and al-Shāfi'i take the advance payment as valid. According to Mālik, it is not valid if paid in advance. Al-Ḥasan al-Baṣrī is of opinion that specific time has been fixed for both prayer and *ṣahāṭ*. If anyone prays before its time, or pays *ṣahāṭ* in advance, it is not valid. ('*Awn al-Ma'būd*, II, 32).

upon him).<sup>931</sup>

### Chapter 543

#### TO WHOM ZAKĀT IS TO BE PAID AND THE DEFINITION OF A WEALTHY PERSON

(1622) 'Abd Allah (b. Mas'ūd) reported the Apostle of Allah (may peace be upon him) as saying: He who begs (from people) when he is affluent will come on the Day of Resurrection with scrapes, scratchings, or lacerations on his face. He was asked: What constitutes affluence, Apostle of Allah? He replied: It is fifty dirhams or its value in gold.

The narrator Yaḥyā said: 'Abd Allah b. Sufyān said to Sufyān: I remember that Shu'bah does not narrate from Ḥakīm b. Jubair. Sufyān said: Zubair transmitted to us this tradition from Muḥammad b. 'Abd al-Raḥmān b. Yazīd.

(1623) 'Aṭā' b. Yasār said: A man from Banū Asad said: I and my family alighted at Baql' al-Gharqad. My wife said to me: Go to the Apostle of Allah (may peace be upon him) and beg something from him for our eating, and made a mention of their need. So I went to the Apostle of Allah (may peace be upon him). I found with him a man who was begging from him and he was saying to him: I have nothing to give you. The man turned away from him in anger while he was saying: By my life, you give anyone you wish. The Apostle of Allah (may peace be upon him) said: He is angry with me, for I have nothing to give him. If any of you begs when he has an ūqiyah<sup>932</sup> or its equivalent, he has begged immoderately. The man of the Banū Asad said: So I said: The she-camel of ours is better than an ūqiyah, while an ūqiyah is equivalent to forty dirhams. I, therefore, returned and did not beg from him. Afterwards some barley and raisins were brought to the Apostle of Allah (may peace be upon him). He gave us a share from them (or as he reported) till Allah, the Exalted, made us self-sufficient (i.e. well off).<sup>933</sup>

931. This shows that the revenue of *sahāṭ* should be spent in the place from where it is collected. The poor and the needy of that place are more deserving than those of other places. In case the people of other places are more needy, the revenue of *sahāṭ* can be transferred. The Prophet (may peace be upon him) used to ask the collectors to bring the *sahāṭ* to Medina from the countryside and he spent it on the needy of the *Muhājirūn* and *Anṣār*.

Mālik, al-Shāfi'ī and al-Thawrī do not allow the transfer of *sahāṭ* from one place to another. Others allow it ('*Awān al-Ma'būd*, II, 39).

932. The ūqiyah (ounce) of the Arabs was equivalent to forty dirhams.

933. Sufyān al-Thawrī, Aḥmad, Ibn al-Mubārak and Ishāq maintain that the limitation of sufficiency is fifty dirhams. Abū 'Ubaid al-Qāsim b. Sallām takes it to be forty dirhams. According to them, a man who has fifty or forty dirhams is not allowed to resort to begging. Mālik and al-

Abū Dāwūd said: Al-Thawrī narrated it as Mālik narrated.

(1624) Abū Sa'īd (al-Khudrī) reported the Apostle of Allah (may peace be upon him) as saying: If anyone begs when he has something equivalent to an *ūqiyah* in value, he has begged immoderately. So I said: My she-camel, Yāqūtah, is better than an *ūqiyah*. The version of Hishām goes: "better than forty dirhams. So I returned and did not beg anything from him."

Hishām added in his version: "An *ūqiyah* during the time of the Apostle of Allah (may peace be upon him) was equivalent to forty dirhams."

(1625) Sahl b. Ḥanẓaliyyah said: 'Uyainah b. Ḥiṣn and Aqra' b. Ḥābis came to the Apostle of Allah (may peace be upon him). They begged from him. He commanded to give them what they begged. He ordered Mu'āwiyah to write a document to give what they begged. Aqra' took his document, wrapped it in his turban, and went away. As for 'Uyainah, he took his document and came to the Prophet (may peace be upon him) at his place, and said to him: Muḥammad, do you see me? I am taking a document to my people, but I do not know what it contains, just like the document of al-Mutalammis.<sup>934</sup> Mu'āwiyah informed the Apostle of Allah (may peace be upon him) of his statement. Thereupon the Apostle of Allah (may peace be upon him) said: He who begs (from people) when he has a sufficiency is simply asking for a great amount of Hell-fire.

Al-Nufailī (a transmitter) said in another place: "embers of Hell". They asked: Apostle of Allah, what is a sufficiency? In another place al-Nufailī said: What is a sufficiency which makes begging unfitting? He replied: It is what would provide a morning and an evening meal. In another place al-Nufailī said: It is when one has enough for a day and night, or for a night a day.

He (al-Nufailī) narrated to us this tradition briefly in the words that I have mentioned.

(1626) Ziyād b. al-Ḥārith al-Ṣudā'ī said: I came to the Apostle of Allah (may peace be upon him) and swore allegiance to him, and after telling a long story he said: Then a man came to him and said: Give me some of the *ṣaqadah* (alms). The Apostle of Allah (may peace be upon him) said: Allah is not pleased with a Prophet's or anyone else's decision about *ṣadaqāt* till He has given a decision about them Him-

Shāfi'ī hold that there is no limit to sufficiency. It depends on one's needs. According to Abū Ḥanīfah, the limit of self-sufficiency is two hundred dirhams. This is the standard of *ṣahābī* ('*Awān al-Ma'būd*, II, 34).

934. Al-Mutalammis was a famous poet of Arabia. He satired the king 'Amr b. Hind. He gave him a letter in a cover asking him to give it to his governor. He thought that the governor would give him some reward. But he became suspicious about the letter on the way. He opened and read the letter to find that the king had asked the governor to kill him. He, therefore, destroyed the letter and thus saved his life.



self. He has divided those entitled to them into eight categories,<sup>935</sup> so if you come within those categories, I shall give you what you desire.

(1627) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: The poor man ( *miskin* ) is not one who is dismissed (by the people) with one or two dates, or with one or two morsels, but is one, who does not beg anything from the people and is not taken notice of so that alms may be given him.<sup>936</sup>

(1628) Abū Hurairah reported: The Apostle of Allah (may peace be upon him) said something similar as mentioned in the preceding tradition. This version adds: But the poor man ( *miskin* ) who abstains from begging from the people is one (according to the version of Musaddad) who does not get enough so that he may not beg from the people, nor is his need known to the people, so that alms be given to him. This is the one who has been deprived. Musaddad did not mention the words "one who avoids begging from the people."

Abū Dāwūd said: This tradition has been transmitted by Muḥammad b. Thawr and 'Abd al-Razzāq on the authority of Ma'mar. They mentioned that the word "deprived" is the statement of al-Zuhri, and this is more sound.

(1629) 'Ubaid Allah b. 'Adī b. al-Khiyār said: Two men informed me that they went to the Prophet (may peace be upon him) when he was at the Farewell Pilgrimage while he was distributing the *ṣadaqah* and asked him for some of it. He looked us up and down, and seeing that we were robust, he said: If you wish, I shall give you something, but there is nothing spare in it for a rich man or for one who is strong and able to earn a living.<sup>937</sup>

(1630) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying: *Ṣadaqah* may not be given to a rich<sup>938</sup> man or to one who has strength and is sound in limbs.

Abū Dāwūd said: This tradition has been transmitted by Sufyān from Sa'd b. Ibrāhīm like the tradition narrated by Ibrāhīm. The version of Shu'bah from Sa'd has: "for a man who has strength and is robust." The other versions of this tradition

935. The Qur'ānic verse reads: "The alms are only for the poor and the needy, and those who collect them, and those whose hearts are to be reconciled, and to free the captives and for the cause of Allah, and (for) the wayfarers" (lx. 60).

936. The most deserving person for receiving *ṣadaqah* is one who tries to conceal his poverty and does not beg from the people. As the people are not aware of his deprivation, they do not give him alms. Hence people should enquire the financial condition of people themselves and give them the *ṣadaqah*.

937. This shows that a person who is rich or robust and strong enough to earn a living should not be given alms. Such a person does not deserve alms. Even he should not beg from the people.

938. By the rich (*ghani*) is meant here a person who owns a property on which *ṣakāt* is payable. *Zakāt* is not allowed to be given to such a person, neither a rich man giving alms to whom is not allowed.



from the Prophet (may peace be upon him) have the words "for a man who has strength and is robust." Others have "for a man who has strength and is sound in limbs. 'Aṭā' b. Zuhair said that he had met 'Abd Allah b. 'Amr who said: *Ṣadaqah* is not lawful for a strong man nor for a man who has strength and is sound in limbs.

### Chapter 544

#### THE RICH PERSON WHO IS ALLOWED TO ACCEPT *ṢADAQAH*

(1631) 'Aṭā' b. Yasār reported the Apostle of Allah (may peace be upon him) as saying: *Ṣadaqah* may not be given to a rich man, with the exception of five classes: One who fights in Allah's path,<sup>939</sup> or who collects it, or a debtor, or a man who buys it with his money, or a man who has a poor neighbour who has been given *ṣadaqah* and gives a present to the rich man.

(1632) The aforesaid tradition has also been transmitted by Abū Sa'īd al-Khudrī to the same effect through a different chain of narrators, attributing it to the Apostle of Allah (may peace be upon him).

Abū Dāwūd said: Ibn 'Uyainah reported from Zaid, from whom Mālik narrated and Thawrī narrated from Zaid that an authentic narrator reported from the Prophet (may peace be upon him).

(1633) Abū Sa'īd reported: The Apostle of Allah (may peace be upon him) said: *Ṣadaqah* is not lawful for a rich person except what comes as a result of *jihād* or what a poor neighbour gifts you out of the *ṣadadah* given to him, or he entertains you in a feast.

Abū Dāwūd said: This has been transmitted by Abū Sa'īd through a different chain of narrators in a similar way.

### Chapter 545

#### HOW MUCH *ZAKĀT* CAN BE GIVEN TO A SINGLE PERSON

(1634) Bashīr b. Yasār said that a man from the *Anṣār* called Sahl b. Abū Hathmah told him that the Prophet (may peace be upon him) gave one hundred camels to him as a blood-wit from among the camels of *ṣadaqah*, that is a blood-wit for the

939. By *ṣadaqah* in this tradition is meant *ṣakhṭ* and the voluntary *ṣadaqah* which can be given to anyone, rich or poor. According to Abū Ḥanīfah, *ṣakhṭ* should not be given to a rich warrior except that he is away from his property. Mālik, al-Shāfi'ī and Ahmad maintain that *ṣakhṭ* can be paid to a rich warrior, as this tradition shows.

It is remarkable that *ṣakhṭ* is not to be given to any rich man with the exception of those rich men mentioned in the tradition ('*Awn al-Ma'būd*, II, 38).

*Anṣarī* who was killed at Khaibar.<sup>940</sup>

### Chapter 546

#### SITUATIONS WHERE BEGGING IS ALLOWED AND WHERE IT IS NOT ALLOWED

(1635) Samurah (b. Jundub) reported the Prophet (may peace be upon him) as saying : Acts of begging are lacerations with which a man disfigures his face, so he who wishes may preserve his self-respect, and he who wishes may abandon it ; but this does not apply to one who begs from a ruler, or in a situation which makes it necessary.<sup>941</sup>

(1636) Qablṣah b. Mukhāriq al-Hilālī said : I became a guarantor for a payment, and I came to the Prophet (may peace be upon him). He said : Wait till I receive the *ṣadaqah* and I shall order it to be given to you. He then said : Begging, Qablṣah, is allowable only to one of three classes : a man who has become a guarantor for a payment to whom begging is allowed till he gets it, after which he must stop (begging) ; a man who has been stricken by a calamity and it destroys his property, to whom begging is allowed till he gets what will support life (or he said, what will provide a reasonable subsistence) ; and a man who has been smitten by poverty, about whom three intelligent members of his people confirm by saying : So and so has been smitten by poverty, to such a person begging is allowed till he gets what will support life (or he said, what will provide a reasonable subsistence), after which he must stop (begging). Any other reason for begging, Qablṣah, is forbidden, and one who engages in such consumes it as a thing which is forbidden.<sup>942</sup>

(1637) Anas b. Mālik said : A man of the *Anṣār* came to the Prophet (may peace be upon him) and begged from him. He (the Prophet) asked : Have you nothing in

940. Obviously blood-money cannot be paid from the revenue of *ṣakhāt*. The Prophet (may peace be upon him) might have paid from the share of debtors.

It is disputed how much should be paid to a poor man from *ṣakhāt*. According to Abū Ḥanīfah, he should be paid less than two hundred dirhams. Sufyān al-Thawrī maintains that he should not be given more than five hundred dirhams. Al-Shāfi'ī and Aḥmad hold that he should be paid as much as satisfies his need. When he has no need, he should not be given any more (*Awn al-Ma'būd*, II, 39).

941. This tradition indicates that there is no sin if a man begs from the people in dire necessity, e.g. in drought, intense hunger, and poverty when a man has nothing to eat. It is worthy of note, that there is no harm in begging from a *sulṭān* who represents the people. He can give money from the public treasury in which everyone has his share.

942. There may be several other situations where a man is forced to beg from the people. For instance, a traveller is robbed of his property on his way, or a warrior loses his property or needs money for fighting. In all such cases begging is allowed, though one may be rich. Begging, however, is not allowable without dire need.

your house? He replied: Yes, a piece of cloth a part of which we wear and a part of which we spread (on the ground), and a wooden bowl from which we drink water. He said: Bring them to me. He then brought these articles to him and he (the Prophet) took them in his hand and asked: Who will buy these? A man said: I shall buy them for one dirham. He said twice or thrice: Who will offer more than one dirham? A man said: I shall buy them for two dirhams. He gave these to him and took the two dirhams and, giving them to the *Anṣārī*, he said: Buy food with one of them and hand it to your family, and buy an axe and bring it to me. He then brought it to him. The Apostle of Allah (may peace be upon him) fixed a handle on it with his own hand and said: Go, gather firewood and sell it, and do not let me see you for a fortnight. The man went away and gathered firewood and sold it. When he had earned ten dirhams, he came to him and bought a garment with some of them and food with others. The Apostle of Allah (may peace be upon him) then said: This is better for you than that begging should come as a spot on your face on the Day of Judgment. Begging is right only for three people: One who is in grinding poverty, one who is seriously in debt, or one who is responsible for bloodwit and finds it difficult to pay.<sup>943</sup>

### Chapter 547

#### DISAPPROVAL OF BEGGING

(1638) 'Awf b. Mālik said: We were with the Apostle of Allah (may peace be upon him), seven, or eight or nine. He said: Do you take the oath of allegiance to the Apostle of Allah (may peace be upon him), and we shortly took the oath of allegiance. We said: We have already taken the oath of allegiance to you. He repeated the same words three times. We then stretched our hands and took the oath of allegiance to him. A man (of us) said: We took the oath of allegiance to you; now on what should we take the oath of allegiance, Apostle of Allah? He replied: That you should worship Allah, do not associate anything with Him, offer five times prayer, listen and obey. He uttered a word quietly: And do not beg from the people. When the whip fell on the ground, none of that group asked anyone to pick up the whip for him.<sup>944</sup>

Abū Dāwūd said: The version of Hishām was not narrated by anyone except Sa'Id.

(1639) Thawbān, the client of the Apostle of Allah (may peace be upon him),

943. This shows that begging is not permissible except in cases of dire need. Moreover, this tradition indicates the excellence and merit of earning one's livelihood by doing hard work.

944. The Companions were so careful in keeping their words that they did not like to ask anyone to pick up their whip if it ever fell on the ground. They used to take it from the ground themselves.

reported him as saying : If anyone guarantees me that he will not beg from people, I will guarantee him Paradise. Thawbān said : I (will not beg). He never asked anyone for anything.

### Chapter 548

#### ON ABSTINENCE FROM BEGGING

(1640) Abū Sa'īd al-Khudrī said : Some of the *Anṣār* begged from the Apostle of Allah (may peace be upon him) and he gave them something. They later begged from him again and he gave them something so that what he had was exhausted. He then said : What I have I shall never store away from you but Allah will strengthen the abstinence of him who abstains, will give a satisfaction to him who wants to be satisfied, and will strengthen the endurance of him who shows endurance. No one has been given a more ample gift than endurance.<sup>945</sup>

(1641) Ibn Mas'ūd reported the Apostle of Allah (may peace be upon him) as saying : If one who is afflicted with poverty refers it to me, his poverty will not be brought to an end ; but if one refers it to Allah, He will soon give him sufficiency, either by a speedy death or by a sufficiency which comes later.<sup>946</sup>

(1642) Ibn al-Firāsī said that al-Firāsī asked the Apostle of Allah (may peace be upon him) : May I beg, Apostle of Allah ? The Prophet (may peace be upon him) said : No, but if there is no escape from it, beg from the upright.<sup>947</sup>

(1643) Ibn al-Sā'idī said : 'Umar employed me to collect the *ṣadaqah*. When I finished doing so and gave it to him, he ordered payment to be given to me. I said : I did only for Allah's sake, and my reward will come from Allah. He said : Take what you are given, for I acted (as a collector) during the time of the Apostle of Allah (may peace be upon him) and he assigned me a payment. Thereupon I said the same kind of thing as you have said, to which the Apostle of Allah (may peace be upon

945. Endurance is the root of moral qualities. One who shows endurance is endowed with all sorts of higher qualities. Hence the Prophet (may peace be upon him) exhorted to show endurance and abstain from begging. One should be contented with the sustenance provided by Allah. There should be no dissatisfaction and discontentment.

946. Speedy death has been explained as the death of some relative who is rich. Thus he will get property by inheritance.

This tradition shows that a Muslim should have trust in Allah if he is afflicted with poverty, and should not express his discontentment and dissatisfaction to the people. Allah will make a way for sustenance. This refers to the Qur'ānic verse : "And whosoever keeps his duty to Allah, Allah will appoint a way out for him, and will provide for him (a quarter) whence he has no expectation" (lxv. 2).

947. The reason of begging from the upright may be that they are usually generous, and are aware of the right of the poor. Hence they do not refuse those who beg from them.

him) said : When you are given something without asking for it, you should use it for your own purpose and as *ṣadaqah*.<sup>948</sup>

(1644) 'Abd Allah b. 'Umar reported that the Apostle of Allah (may peace be upon him) said when he was on the pulpit speaking of *ṣadaqah* and abstention from it and begging: The upper hand is better than the lower one, the upper being the one which bestows and the lower which begs.

Abū Dāwūd said: The version of this tradition narrated by Ayyūb from Nāfi' is disputed. The narrator 'Abd al-Wārith said in his version: "The upper hand is the one which abstains from begging;" but most of the narrators have narrated from Ḥammād b. Zaid from Ayyūb the words: "The upper hand is the one which bestows." A narrator from Ḥammād said in his version: "the one which abstains from begging."

(1645) Mālik b. Naḍlah reported the Apostle of Allah (may peace be upon him) as saying: Hands are of three types: Allah's hand is the upper one; the bestower's hand is the one near it; the beggar's hand is the lower one. So bestow what is surplus, and do not submit yourself to the demand of your soul.

## Chapter 549

### ON GIVING *SADAQAH* TO BANŪ HĀSHIM

(1646) Abū Rāfi' said: The Prophet (may peace be upon him) sent a man of the Banū Makhzūm to collect *ṣadaqah*. He said to Abū Rāfi': Accompany me so that you may get some of it. He said: (I cannot take it) until I go to the Prophet (may peace be upon him) and ask him. Then he went to him and asked him. He said: The *ṣadaqah* is not lawful for us, and the client of a people is treated as one of them.<sup>949</sup>

(1647) Anas said: The Prophet (may peace be upon him) came upon a date on the road; he would not take it for fear of being a part of the *ṣadaqah*.

(1648) Anas said: The Prophet (may peace be upon him) found a date and said: Were it not that I fear it may be part of the *ṣadaqah*, I would eat it.

(1649) Ibn Abbās said: My father sent me to the Prophet (may peace be upon

948. This tradition indicates that a man is allowed to accept the wages or remuneration given to him by the government for the collective work of the Muslims. This also implies that one should not refuse a gift or an endowment that one receives without his desire, effort, begging or demand.

949. This and similar other traditions show that *ṣadaqah* is not lawful for Banū Hāshim. The rules of *ṣadaqah* that apply to Banū Hāshim apply to their clients too. Abū Rāfi' was the client of the Prophet (may peace be upon him). Banū Hāshim are the descendants of 'Alī, 'Abbās, Ja'far, Aqīl, and al-Ḥārith b. 'Abd al-Muṭṭalib. Hāshim was son of 'Abd Manāf b. Qusayy b. Kilāb b. Murrah ('*Awān al-Ma'bad*, II, 45).



him) to take the camels which he had given him from among those of *ṣadaqah*.<sup>950</sup>

(1650) The aforesaid tradition has also been transmitted by Ibn 'Abbās through a different chain of narrators in a similar manner. This version adds : "My father exchanged them for him".<sup>951</sup>

### Chapter 550

#### A POOR MAN CAN GIVE A GIFT FROM THE *ṢADAQAH* TO A RICH MAN

(1651) Anas said : When some meat was brought to the Prophet (may peace be upon him), he asked : What is this ? He was told : This is a thing (meat) which was given as *ṣadaqah* to Barīrah.<sup>952</sup> Thereupon he said : It is *ṣadaqah* for her and a gift to us.<sup>953</sup>

### Chapter 551

#### ON A PERSON WHO GIVES THE *ṢADAQAH* AND HE INHERITS IT LATER ON

(1652) Buraidah said : A woman came to the Apostle of Allah (may peace be upon him) and said : I gave a slave-girl as *ṣadaqah* to my mother who has now died and has left that slave-girl. He said : Your reward is sure, and the inheritance has given her back to you.<sup>954</sup>

950. As *ṣadaqah* is not lawful for Banū Hāshim, this tradition has been explained in a twofold way. First, this happened before the prohibition of *ṣadaqah* to Banū Hāshim. This rule was repealed later on. Second, the Prophet (may peace be upon him) might have borrowed some camels from 'Abbās for the poor when he had no camels to distribute. He then paid this loan to him from the camels of the *ṣadaqah* when he had them ('*Awn al-Ma'būd*, II, 47).

951. According to this version, there is no need of the explanation for the previous tradition. This means that 'Abbās sent his son 'Abd Allah to the Prophet (may peace be upon him) to exchange the camels which he had given him from those of the *ṣadaqah*. As *ṣadaqah* was not lawful for Banū Hāshim he got them exchanged later on ('*Awn al-Ma'būd*, II, 47).

952. Barīrah was a slave-girl whom 'Ā'ishah bought and set free.

953. This tradition shows that a poor man can give a gift to Banū Hāshim or to a rich man out of the *ṣadaqah* given to him.

954. The majority of the scholars are of opinion that if a man gives his relative something as *ṣadaqah*, and later on he gets it back by inheritance, that is lawful for him, as this tradition indicates. Some scholars hold that the thing should again be given as *ṣadaqah* ('*Awn al-Ma'būd*, II, 47).



## Chapter 552

## THE RIGHTS RELATING TO PROPERTY

(1653) 'Abd Allah (b. Mas'ud) said : During the time of the Apostle of Allah (may peace be upon him) we used to consider *mā'un*<sup>955</sup> (things of daily use) lending a bucket and cooking-pot.

(1654) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : If any owner of treasure (gold and silver) does not pay what is due on it, Allah will make it heated in the Hell-fire on the Day of Judgment, and his side, forehead and back will be cauterised with it until Allah gives His judgment among mankind during a day whose extent will be fifty thousand years of your count, and he sees whether his path is to take him to Paradise or to Hell. If any owner of sheep does not pay *zakāt* on them, the sheep will appear on the Day of Judgment most strong and in greater number, a soft sandy plain will be spread out for them ; they will gore him with their horns and trample him with their hoofs ; there will be none of them with twisted horns or without horns. As often as the last of them passes him, the first of them will be brought back to him, until Allah pronounces His judgment among mankind during a day whose extent will be fifty thousand years that you count, and he sees whether his path is to take him to Paradise or to Hell. If any owner of camels does not pay what is due on them, they will appear in greater number and most strong on the Day of Judgment ; a soft sandy plain will be spread out for them, and they will trample him with their hoofs. As often as the last of them passes him, the first of them will be brought back to him, until Allah pronounces His judgment among mankind during a day whose extent will be fifty thousand years that you count ; and he sees whether his path is to take him to Paradise or to Hell.<sup>956</sup>

(1655) The above-mentioned tradition has also been transmitted by Abū Hurairah through a different chain of narrators in a similar manner from the Prophet (may peace be upon him). This version adds after the words "does not pay what is due on them" in the description of the camels the words : "One thing which is due being to

955. The word *mā'un* occurs in the following Qur'ānic verse : "So woe to the worshippers who are neglectful of their prayers, those who (want but) to be seen (of man) but refuse (to supply) even neighbourly needs" (cvii. 4-7). This has been explained in this tradition. *Mā'un* means little acts of neighbourly help, courtesy and kindness of daily life, and the supply of daily needs which cost little but mean much. Examples of such needs are found in the traditions, lending a bucket, cooking pot, salt, water, etc.

956. This is the most sound tradition about the obligation of *zakāt* on gold, silver, camel and sheep. Muslim's version has also the words "cow" and "horse," which shows that *zakāt* will be levied on horse and cow. This tradition is also a threat to those who do not pay *zakāt*. Severe punishment will be inflicted on them on the Day of Judgment ('*Awn al-Ma'būd*, II 48).

milk them when they come down to drink water.”<sup>957</sup>

(1656) Abū Hurairah said : I heard the Apostle of Allah (may peace be upon him) saying something similar to this tradition. He (the narrator) said to Abū Hurairah : What is due on camels ? He replied : That you should give the best of your camels (in the path of Allah), that you lend a milch she-camel, that you lend your mount for riding, that you lend the stallion for covering, and that you give the milk (to the people) for drinking.<sup>958</sup>

(1657) The aforesaid tradition has also been transmitted by ‘Ubaid b. ‘Umair through a different chain of narrators. This version goes : A man asked : Apostle of Allah, what is due on camels ? He replied in a similar way. This version adds : “and to lend its udders”.<sup>959</sup>

(1658) Jābir b. ‘Abd Allah said : The Prophet (may peace be upon him) commanded that he who plucks ten *wasqs* of dates from date-palms should hang a bunch of dates in the mosque for the poor.<sup>960</sup>

(1659) Abū Sa‘īd al-Khudrī said : While we were travelling along with the Apostle of Allah (may peace be upon him) a man came to him on his she-camel, and began to drive her right and left.<sup>961</sup> The Apostle of Allah (may peace be upon him) said : He who has a spare riding-beast should give it to him who has no riding-beast; and he who has surplus equipment should give to him who has no equipment. We thought that none of us had a right in surplus property.

(1660) Ibn ‘Abbās said : When this verse was revealed : “And those who hoard gold and silver,”<sup>962</sup> the Muslims were grieved<sup>963</sup> about it. ‘Umar said : I shall dispel your care. He, therefore, went and said : Prophet of Allah, your Companions were

957. This version with this chain of narrators has been recorded by Muslim in his *Ṣaḥīḥ*. The camels generally come to drink water after three, four and sometimes after eight days. This means that it is their right that the owner should milk them when they come to drink water and give it to the passersby. The other interpretation is that he should milk them only when they come to drink water to abstain from hardship (*‘Awn al-Ma‘būd*, II, 49).

958. These things are supplied to the people against some payment. The Prophet (may peace be upon him) therefore, pointed out : What is due on the camels is to lend them for milking, riding and covering. This is commendable and not obligatory.

959. This means that one should lend one's she-camel to another Muslim who has no she-camel for getting milk.

960. This due was over and above *ṣakhāt*. This might be voluntary and supererogatory *ṣadaqah*.

961. He did so, for the camel was tired, or he wanted to draw the attention of the Prophet (may peace be upon him).

962. Qur’ān, ix. 34.

963. The Muslims presumed that this verse apparently prohibited them from saving surplus money. If they did not spend all the surplus money in the path of Allah, they would be punished in the next world according to this verse. But the Prophet (may peace be upon him) made it clear that by hoarding is meant the property on which *ṣakhāt* was not paid.

grieved by this verse. The Apostle of Allah (may peace be upon him) said : Allah has made *zakāt* obligatory simply to purify your remaining property, and He made inheritances obligatory that they might come to those who survive you. 'Umar then said : Allah is most great. He then said to him : Let me inform you about the best a man hoards ; it is a virtuous woman who pleases him when he looks at her, obeys him when he gives her a command, and guards his interests when he is away from her.

### Chapter 553

#### THE RIGHT OF A BEGGAR

(1661) 'All reported the Apostle of Allah (may peace be upon him) as saying : A beggar has the right though he may be riding (a horse).<sup>964</sup>

(1662) The above-mentioned tradition has also been transmitted by 'All through a different chain of narrators in a similar manner from the Prophet (may peace be upon him).

(1663) Umm Bujaid who took the oath of allegiance to the Apostle of Allah (may peace be upon him) said to him : Apostle of Allah, a poor man stands at my door, but I find nothing to give him. The Apostle of Allah (may peace be upon him) said to her : If you do not find anything to give him, put something in his hand, even though it should be a burnt hoof.<sup>965</sup>

### Chapter 554

#### THE GIVING OF *ṢADAQAH* (ALMS) TO NON-MUSLIMS

(1664) Asmā' said : My mother came to me seeking some act of kindness from me during the treaty of the Quraish (at Ḥudaibiyyah) while she hated Islam and she was a polytheist. I said : Apostle of Allah, my mother has come to me while she hates Islam and she is a disbeliever. May I do an act of kindness to her ? He replied : Yes, do an act of kindness to her.<sup>966</sup>

964. Beggary is a disgrace to a Muslim. It is not befitting for a Muslim to beg from the people without dire need. Now if a Muslim supposedly comes on a horse and begs from the people, this means that he is helpless and is forced to undergo such a disgrace. Therefore, the other Muslims should have good faith about him and honour him. This tradition explains the Qur'ānic verse : "Nor repulse the petitioner (unheard)" (xciii. 10).

965. This shows that one should put something in the hand of a beggar even though it be a trifle. One should not return the beggar empty-handed.

966. The mother of Asmā', daughter of Abū Bakr, came to Medina after the migration of Abū Bakr and Asmā' following the Treaty of Ḥudaibiyyah with the Quraish. She had not embraced Islam hitherto. It is disputed whether or not she embraced Islam later.

## Chapter 555

THINGS WHICH SHOULD NOT BE REFUSED  
WHEN ASKED FOR

(1665) Buhaisah reported on the authority of his father : My father sought permission from the Prophet (may peace be upon him). (When permission was granted and he came near him) he lifted his shirt, and began to kiss him and embrace him (out of love for him). He asked : Apostle of Allah, what is the thing which it is unlawful to refuse ? He replied : Water. He again asked : Prophet of Allah, what is the thing which it is unlawful to refuse ? He replied : Salt. He again asked : Prophet of Allah, what is the thing which it is unlawful to refuse ? He said : To do good is better for you.<sup>967</sup>

## Chapter 556

## BEGGING IN THE MOSQUES

(1666) 'Abd al-Raḥmān b. Abū Bakr (may Allah be pleased with him) said : The Apostle of Allah (may peace be upon him) asked : Is there any one of you who provided food to a poor man today ? Abū Bakr said : I entered the mosque where a beggar was begging ; I found a piece of bread in the hand of 'Abd al-Raḥmān which I took and gave it to him.<sup>968</sup>

## Chapter 557

REPUGNANCE OF BEGGING IN THE NAME OF ALLAH,  
THE EXALTED

(1667) Jābir reported the Apostle of Allah (may peace be upon him) as saying : Nothing but Paradise must be begged for Allah's sake.<sup>969</sup>

967. Water and salt are things that are generally needed by the people, and they are not so costly that one may refuse them. Hence the Prophet (may peace be upon him) exhorted to give these trifles and other things needed in everyday life. One should not refuse them when asked for.

968. This tradition shows that it is permissible to beg in the mosque and to give alms to a beggar. Some scholars are of view that it is disapproved to beg or to give *ṣadaqah* in the mosque. But al-Nawawī, the commentator of *Ṣaḥīḥ Muslim*, says that this view is not correct ('*Awn al-Ma'būd*, II. 52).

969. The name of Allah is most high and most great. One should not utilise it for the sake of getting the trifles of this world. All things of this world, however great and precious they might be, are worthless *vis-à-vis* the name of Allah. Hence a Muslim should use this blessed name to ask for the eternal blessings of the next world. All worldly things are ephemeral. One should ask for Paradise in the name of Allah.

## Chapter 558

ON GIVING A PERSON WHO BEGS IN THE  
NAME OF ALLAH

(1668) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon him) as saying : If anyone seeks protection in Allah's name, grant him protection ;<sup>970</sup> if anyone begs in Allah's name, give him something ; if anyone gives you an invitation, accept it ; and if anyone does you a kindness, recompense him ; but if you have not the means to do so, pray for him until you feel that you have compensated him.<sup>971</sup>

## Chapter 559

ON GIVING ALL THE PROPERTY AS *ṢADAQAḤ*  
BY A MAN

(1669) Jābir b. 'Abd Allah al-Anṣārī said : While we were sitting with the Apostle of Allah (may peace be upon him) a man brought him some gold equal in weight to an egg, and said : Apostle of Allah, I have got this from a mine ; take it ; it is *ṣadaqah*. I have no more than this. The Apostle of Allah (may peace be upon him) turned his attention from him. Then he came to him from his right side and repeated the same words. But he (the Prophet) turned his attention from him. He then came to him from his left side, and repeated the same words. But he (again) turned his attention from him. He then came to him from behind. The Apostle of Allah (may peace be upon him) took it and threw it away. Had it hit him, it would have hurt him or wounded him. The Apostle of Allah (may peace be upon him) said : One of you brings all that he possesses and says : This is *ṣadaqah*. Then he sits down and spreads his hand before the people. The best *ṣadaqah* is that which leaves a competence.<sup>972</sup>

(1670) The above-mentioned tradition has also been transmitted by Ibn Ishāq through a different chain of narrators to the same effect. This version adds : "have

970. Meaning that if anyone seeks to avert evil from him in the name of Allah, the greatness and exaltation of Allah's name demands that one should remove the evil and give him protection. Similarly, begging and invitation in Allah's name should be responded because of the greatness of His name.

971. To give compensation for one's act of kindness is a moral obligation. If anyone has no means for compensation, he should pray for him who has done an act of kindness.

972. It is not advisable to spend all the property one possesses in the path of Allah and then to beg from the people. One should be moderate in giving one's property as *ṣadaqah*. It is better to save something for one's own needs than to spend all the property one possesses.



your property with you from us. We have no need of it."<sup>973</sup>

(1671) Abū Sa'īd al-Khudrī said : A man entered the mosque. The Prophet (may peace be upon him) commanded the people to throw their clothes as *ṣadaqah*. Thereupon they threw their clothes (as *ṣadaqah*). He then asked him to take two clothes from them. He then exhorted people to give *ṣadaqah*. The man came and threw one of his two clothes. He reprimanded him and said : Take your clothe.<sup>974</sup>

(1672) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : The best *ṣadaqah* is that which leaves a competence ; and begin with those for whom you are responsible.<sup>975</sup>

### Chapter 560

#### CONCESSION FOR GIVING ALL THE PROPERTY AS *ṢADAQAH*

(1673) Abū Hurairan reported : I asked : Apostle of Allah, what kind of *ṣadaqah* is most excellent ? He replied : What a man with little property can afford to give;<sup>976</sup> and begin with those for whom you are responsible.

(1674) 'Umar b. al-Khaṭṭāb said : The Apostle of Allah (may peace be upon him) commanded us one day to give *ṣadaqah*. At that time I had some property. I said : Today I shall surpass Abū Bakr if I surpass him any day. I, therefore, brought half my property. The Apostle of Allah (may peace be upon him) asked : What did you leave for your family ? I replied : The same amount. Abū Bakr brought all that he

973. The Prophet (may peace be upon him) did not accept his *ṣadaqah*, for he knew that he would be poor, and he would have nothing to maintain his family. Priority should be given to the maintenance of one's family and dependants ; what remains surplus from his essential needs, one may give to the poor and indigent. It is of no use to give all the property as *ṣadaqah* and then to be ashamed of this good deed, rather sometimes one fears poverty. Therefore, the middle course is that a part of the property should be given as *ṣadaqah* and a part be saved for one's own needs.

974. The Prophet (may peace be upon him) did not accept his *ṣadaqah* because he himself needed those two clothes and he had no clothes with him. By this example he taught the community to adopt a middle way in giving *ṣadaqah*.

975. The relatives, provided they are poor, are more deserving for *ṣadaqah* than others. In such a case a man will get a double reward, reward for *ṣadaqah* and reward for doing kindness to relatives.

976. The general rule for giving *ṣadaqah* is what has been mentioned in the previous traditions. One should give priority to one's own needs. In this tradition an exceptional rule has been mentioned. This is for those who have perfect trust in Allah, and are not ashamed of spending out all the property in the path of Allah. Such people are not afraid of poverty and have full conviction in the providence of Allah.

The majority of scholars are of view that giving all the property as *ṣadaqah* is commendable. Some allow one-third and others one-half ('*Awn al-Ma'būd*, II, 54).



had with him. The Apostle of Allah (may peace be upon him) asked him : What did you leave for your family ? He replied : I left Allah and His Apostle for them. I said : I shall never compete you in anything.<sup>977</sup>

### Chapter 561

#### ON THE EXCELLENCE OF SUPPLYING DRINKING WATER

(1675) Sa'Id reported : Sa'd came to the Prophet (may peace be upon him) and asked him : Which *ṣadaqah* do you like most ? He replied : Water.<sup>978</sup>

(1676) The above-mentioned tradition has also been narrated by Sa'd b. 'Ubādah from the Prophet (may peace be upon him) in the same manner.

(1677) Sa'd b. 'Ubādah reported that he asked : Apostle of Allah, Umm Sa'd has died ; what form of *ṣadaqah* is best ? He replied : Water (is best). He dug a well and said : It is for Umm Sa'd.<sup>979</sup>

(1678) Abū Sa'Id (al-Khudri) reported the Prophet (may peace be upon him) as saying : If any Muslim clothes a Muslim when he is naked, Allah will clothe him with some green garments of Paradise ; if any Muslim feeds a Muslim when he is hungry, Allah will feed him with some of the fruits of Paradise ; and if any Muslim gives a Muslim drink when he is thirsty, Allah will give him some of the pure wine which is sealed<sup>980</sup> to drink.

### Chapter 562

#### ON LENDING SOMETHING

(1679) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying : There are forty characteristics ; the highest of them is to give a goat on loan (for benefiting from its milk). If any man carries out any of those characteris-

977. Persons like Abū Bakr are allowed to give all their property in the path of Allah.

978. This refers to digging a well for travellers or making some other arrangement for water, especially in those localities where water is scanty. Arabia is a desert country and water is scanty there. Hence the Prophet (may peace be upon him) exhorted people to provide water that will count an excellent *ṣadaqah*. From this it also follows that the supply of a thing most needed by the people is a great *ṣadaqah*.

979. This shows that one can give *ṣadaqah* on behalf of one's kins after their death. The reward of the *ṣadaqah* will be given by Allah to the deceased if intended so. There is no specification of water. One can dedicate anything beneficial to the people. Due to scarcity of water in Arabia, it was considered most valuable. Building of mosques, digging wells, founding schools: construction of bridges, building inns for travellers, etc., are works of public benefit. Allah may give reward for these good works to the deceased.

980. Cf. the Qur'ān, lxxxiii. 25.

tics with the hope of getting a reward and testifying to the promise for it, Allah will admit him to Paradise for it.

Abū Dāwūd said : In the version of Musaddad, Ḥassān said : So we counted other characteristics than lending the goat : to return the greeting,<sup>981</sup> to respond to sneezing,<sup>982</sup> to remove things which cause annoyance to the people from their path,<sup>983</sup> and similar other things. We could not reach fifteen characteristics.

### Chapter 563

#### REWARD FOR A TRUSTEE

(1680) Abū Mūsā reported the Apostle of Allah (may peace be upon him) as saying : The faithful trustee who gives what is he is commanded completely and in full with a good will, and delivers it to the one whom he was told to give it,<sup>984</sup> is one of the two who give *ṣadaqah*.<sup>985</sup>

### Chapter 564

#### ṢADAQAH GIVEN BY A WOMAN FROM HER HUSBAND'S PROPERTY

(1681) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying : When a woman gives (some of the property) from her husband's house, not wasting<sup>986</sup> it, she will have her reward for what she has spent, and her husband will have his for what he earned. The same applies to a trustee. In no respect does the one diminish the reward of the other.

(1682) Sa'd said : When the Apostle of Allah (may peace be upon him) took the

981. If a Muslim greets another Muslim by saying : "Peace be upon you," it is necessary for him at least to return the same words, i.e. "And upon you be peace." He may add the words : "And Allah's mercy and His blessings." To greet is a virtue, and its response is also a virtue.

982. It is commendable to utter the words "Praise be to Allah" when one sneezes, and the man who hears him uttering these words should say "May Allah have mercy upon you."

983. This means the removal of stones, thorns, bones, and similar other things from the road.

984. A trustee is a man who keeps on deposit the property of a person who has kept it with him. He himself does not own the property. But Allah gives him reward for giving *ṣadaqah* if he delivers the property with the following conditions : that he gives the property with the owner's permission, gives completely in full as required of him, delivers with a good will, and finally he gives to whom he is asked to deliver. He should be a Muslim as a tradition narrated by al-Bukhārī shows.

985. The two are his master and himself.

986. This means that she should spend sincerely with the intention of well-wishing with her husband. She should not spend his property unnecessarily. In case she gives *ṣadaqah*, she should seek the permission of her husband ('*Awn al-Ma'būd*, II, 56).

oath of allegiance from woman, a woman of high rank, who seemed to be one of the women of Muḍar, rose and said : Prophet of Allah, we are dependent on our parents, our sons. (Abū Dāwūd said : I think this [version] has the word "and our husbands".) So what part of their property can we spend lawfully ? He said : Fresh food which you eat and give as a present.

Abū Dāwūd said : The Arabic word *raḥb* means bread, vegetables, and fresh dates.

Abū Dāwūd said : Al-Thawrī transmitted from Yūnus in a similar manner.

(1683) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : When a woman gives something her husband has earned without being commanded by him to do so, she has half his reward.<sup>987</sup>

(1684) 'Aṭā' said : Abū Hurairah was asked whether a woman could give *ṣadaqah* from the house (property) of her husband. He replied : No ; she can give it from her maintenance. The reward will be divided between them. It is not lawful for her to give *ṣadaqah* from her husband's property without his permission.<sup>988</sup>

Abū Dāwūd said : This version weakens the version narrated by Hammām (b. Munabbih).

### Chapter 565

#### ON DOING KINDNESS TO NEAR RELATIVES

(1685) Anas said : When the verse "You will never attain righteousness until you give freely of what you love" came down, Abū Ṭalḥah said : Apostle of Allah, I think our Lord asks us for our property. I call you as witness that I dedicate my land at Arlḥā' to Him. The Apostle of Allah (may peace be upon him) said to him : Divide it among your nearest relatives. So he divided it among Ḥassān b. Thābit and Ubayy

987. It is necessary for wife, slave and trustee to obtain the permission of the master or husband to spend the property. In case there is no permission from him explicitly or implicitly, there will be no reward for them. Permission is of two kinds : First, the master or husband grants permission in plain words for spending. Second, the amount spent by them should be in consonance with the prevalent practice, and it is known about the master or the husband that he is a generous man ; he will not object to spending a limited quantity customarily spent by the people in that locality. If the master or the husband is not generous, and he does not usually spend anything on others, then permission is necessary. The words "without being commanded by him" mean his explicit permission. There must, however, be implicit permission as the other traditions indicate ('*Awn al-Ma'būd*, II, 57).

988. It should be noted that there are various traditions on this subject. Some allow the giving of *ṣadaqah* with permission, and others without permission. Some traditions stipulate certain conditions for spending from the property of the master or husband. These different rather contradictory traditions can be harmonised by saying that all this depends on custom, practice, situation and the habit and temperament of the master or husband. One should do as the situation demands ('*Awn al-Ma'būd*, II, 58).

b. Ka'b.<sup>989</sup>

Abū Dāwūd said : I have been told by an *Anṣārī* Muḥammad b. 'Abd Allah that the name of Abū Ṭalḥah is Zaid b. Sahl b. al-Aswad b. Ḥarām b. 'Amr b. Zaid b. Manāt b. 'Adī b. 'Amr b. Mālik b. al-Najjār ; and Ḥassān b. Thābit is son of al-Mundhir b. al-Ḥarām. Thus both of them (Abū Ṭalḥah and Ḥassān) have their common link in Ḥarām who is the third great-grandfather. Ubayy b. Ka'b is son of Qais b. 'Atīk b. Zaid b. Mu'āwiyah b. 'Amr b. Mālik b. al-Najjār. Thus the common tie between Ḥassān, Abū Ṭalḥah and Ubayy is 'Amr (b. Mālik). The *Anṣārī* said : Between Ubayy and Abī Ṭalḥah there are six great-grandfathers.

(1686) Maimūnah, wife of the Prophet (may peace be upon him), said : I had a slave-girl and I set her free. When the Prophet (may peace be upon him) entered upon me, I informed him (of this). He said : May Allah give you reward for it ; if you had given her to your maternal uncles, it would have increased your reward.<sup>990</sup>

(1687) Abū Hurairah reported : The Prophet (may peace be upon him) commanded to give *ṣadaqah*. A man said : Apostle of Allah, I have a dīnār. He said : Spend it on yourself. He again said : I have another. He said : Spend it on your children. He again said : I have another. He said : Spend it on your wife. He again said : I have another. He said : Spend it on your servant. He finally said : I have another. He replied : You know best (what to do with it).<sup>991</sup>

(1688) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying : It is a sufficient sin for a man that he neglects him whom he maintains.<sup>992</sup>

(1689) Anas reported the Apostle of Allah (may peace be upon him) as saying : Anyone who is pleased that his sustenance is expanded and his age extended should do kindness to his near relatives.<sup>993</sup>

989. This tradition shows the excellence of doing an act of kindness to one's kins. Although Abū Ṭalḥah gave his land as *ṣadaqah*, but the Prophet (may peace be upon him) exhorted him to distribute it among his relatives who were in need of it. This secured for him double reward, one for giving *ṣadaqah* and the other for doing good to the relatives.

990. The reason is that her maternal uncles were in need of a slave-girl and they could not procure it themselves. She got a single reward for setting her free, but she would have got double reward if she had given her to her relatives.

991. This indicates that one should give *ṣadaqah* after one's own needs are satiated.

992. This means that it is a sin if a man spends his money on other works while his poor relatives are more deserving for it.

Another translation of this tradition is as follows : "It is a sufficient sin for a man that he loses the one who provides him livelihood "

993. By the extension of age is meant the achievement of blessing, success and happiness during one's life. Or this means the survival of one's name and fame after death. The extension of age may be an apparent process for us in reference to human beings, but not in reference to Allah. The time limit has been predestined by Allah, and each one has to complete his term by all means. Hence there is no increase or decrease of age in the eyes of Allah ('*Awn al-Ma'būd*, II, 60).

(1690) 'Abd al-Rahmān b. 'Awf said : I heard the Apostle of Allah (may peace be upon him) say : Allah the Exalted has said : I am Compassionate, and this has been derived from mercy. I have derived its name from My name. If anyone joins it, I shall join him, and if anyone cuts it off, I shall cut him off.<sup>994</sup>

(1691) The above-mentioned tradition has also been narrated by 'Abd al-Rahmān b. 'Awf from the Apostle of Allah (may peace be upon him) through a different chain of narrators to the same effect.

(1692) Jubair b. Mu'īn reported on the authority of his father : The Prophet (may peace be upon him) said : Anyone who cuts off relationship from his nearest relatives will not enter Paradise.<sup>995</sup>

(1693) 'Abd Allah b. 'Amr said (Sufyān said : The version of the narrator Sulaimān does not go back to the Prophet [may peace be upon him]. Fiṭr and al-Ḥasan reported from him) : The Apostle of Allah (may peace be upon him) said : One who compensates is not a man who unites relationship ; but the man who unites relationship is the one who joins it when the relationship is cut off.<sup>996</sup>

### Chapter 566

#### DISAPPROVAL OF AVARICE

(1694) 'Abd Allah b. 'Amr said : The Apostle of Allah (may peace be upon him) preached and said : Abstain from avarice, for those who had been before you were annihilated due to avarice. It (avarice) commanded them to show niggardliness ; it commanded them to cut off their relationship with their nearest relatives, so they cut off. It commanded them to show profligacy, so they showed it.<sup>997</sup>

(1695) Asmā', daughter of Abū Bakr, said : I said : Apostle of Allah, I have nothing of my own except what al-Zubair [her husband] brings to me in his house ;

994. This means that Allah will have mercy on a person who does good to his near relatives, and will deprive him of His mercy and blessing who is not kind to his kins. Joining and cutting refer to showing kindness or unkindness to one's relatives.

995. This is in fact a sort of threat for such persons as do not do kindness to their near relatives and cut off their relationship from them. This is a major sin. All this shows the significance of doing good to one's relatives.

996. It is no excellence if a man returns the act of kindness done to him by his relative. What is excellent is that a man does not cut off his relationship with his near relative who has cut it off from him ; or he reconciliates between the two relatives who have separated from each other due to some dispute.

997. The Arabic word *shuḥḥ* has been explained variously. It bears different shades of meaning. It appears that *shuḥḥ* means avarice where temptation and niggardliness are combined together. Thus *shuḥḥ* is more acute in degree than *bukhl* (niggardliness). Here the combination of two evils makes it a greater evil. Hence the Prophet (may peace be upon him) has stressed abstention from it.



should I spend out of it ? He said : Give and do not hoard, so your sustenance will be hoarded.<sup>998</sup>

(1696) Abū Mulaikah reported : 'Ā'ishah counted a number of indigents. Abū Dāwūd said : The other version has : She counted a number of *ṣaduqahs*. The Apostle of Allah (may peace be upon him) said : Give and do not calculate, so calculation will be made against you.<sup>999</sup>

## Chapter 567

### FINDS

(1697) Suwaid b. Ghafflah said : I fought along with Zaid b. Ṣūhān and Sulaimān b. Rabī'ah. I found a whip. They said to me : Throw it away. I said : No ; if I find its owner (I shall give it to him) ; if not, I shall use it. Then I performed *Hajj*; and when I reached Medina, I asked Ubayy b. Ka'b. He said : I found a purse which contained one hundred dīnārs ; so I came to the Prophet (may peace be upon him). He said to me : Make the matter known for a year. I made it known for a year and then came to him. He then said to me : Make the matter known for a year. So I made it known for a year. I then (again) came to him. He said to me : Make the matter known for a year. Then I came to him and said : I did not find anyone who realises it. He said : Remember its number, its container and its tie. If its owner comes, (give it to him), otherwise use it yourself.

He (the narrator Shu'bah) said : I do not know whether he said the word "make the matter known" three times or once.<sup>1000</sup>

998. This is an exhortation to spending on others. The Prophet (may peace be upon him) meant that her husband entrusted the property to her, and according to custom the wife was generally allowed to spend out of the property of her husband where she deemed necessary. The Prophet (may peace be upon him) therefore, prohibited her from hoarding and asked her to spend. In case she withholds, her sustenance will also be withheld by Allah.

999. 'Ā'ishah asked the Prophet (may peace be upon him) if a certain number of the poor came to her house begging from him how much *ṣadaqah* should be given to them. Or this means that she mentioned that one day a number of indigents came to her and she gave *ṣadaqah* to them. The Prophet (may peace be upon him) prohibited her from calculating the number of the poor or the number of *ṣadaqah* she had given. As Allah does not calculate in giving the sustenance, one should not calculate while spending on the poor (*'Awn al-Ma'būd*, II, 62).

1000. The version recorded by Muslim in his *Ṣaḥīḥ* has that Shu'bah said to Salamah after ten years : Tell the people to make the matter known for one year. This is also corroborated by the version recorded by Abū Dāwūd al-Ṭayālīsī in his collection. Al-Mundhirī has pointed out that none of the classical jurists held the view to make the matter known for three years. There is only a single report from 'Umar. 'Alī and Ibn 'Abbās are also reported to have held that a find should be made known for one year. This is the view held by Abū Ḥanīfah. Shāfi'ī, Mālik and Aḥmad b. Ḥanbal. Further, after making the matter known for a year, the man who found the object can use it himself. It matters little whether he is rich or poor (*'Awn al-Ma'būd*, II, 62).



(1698) The aforesaid tradition has also been transmitted by Shu'bah through a different chain of narrators to the same effect. This version goes : He said : Make it known for a year. He said this three times. He said : I do not know whether he said "for a year" or "for three years"

(1699) The above-mentioned tradition has also been transmitted by Salamah. b. Kuhail through a different chain to the same effect. This version has : About making the matter known he said : "Two years or three." He said : Remember its number, its container, and its string. The version adds : If its owner comes, and tells its number, and its string, then give it to him.

Abū Dāwūd said : None of the narrators said this word in this tradition except Hammād ; that is, "if he tells its number".

(1700) Zaid b. Khālid al-Juhanī said : A man asked the Apostle of Allah (may peace be upon him) about a find. He said : Make the matter known for a year, then note its string and its container, and then use it for your own purpose. Then if its owner comes, give it to him. He asked : Apostle of Allah, what about a stray sheep ? He replied : Take it ; that is for you, or for your brother, or for the wolf. He again asked : Apostle of Allah, what about stray camels ? The Apostle of Allah (may peace be upon him) became angry so much so that his cheeks became red or (the narrator is doubtful) his face became red. He replied : What have you to do with them ? They have with them their feet and stomachs (for drink) till their master comes to him.<sup>1001</sup>

(1701) The above-mentioned tradition has also been transmitted by Mālik through a different chain of narrators to the same effect. This version adds : They have their stomachs ; they can go down to water and eat trees. He did not say about the stray sheep : Take it. About a find he said : Make it known for a year ; if its owner comes, (give it to him), otherwise use it yourself. This version has not the word : "spend it".

Abū Dāwūd said : This tradition has been narrated by al-Thawrī, Sulaimān b. Bilāl, and Hammād b. Salamah on the authority of Rabī'ah in a similar manner. They did not mention the word "Take it".

(1702) Zaid b. Khālid al-Juhanī said : The Apostle of Allah (may peace be upon him) was asked about a find. He said : Make it known for a year. If its seeker comes, deliver it to him, otherwise note its container and its string. Then use it ; if its seeker comes, deliver it to him.<sup>1002</sup>

1001. If a man finds a stray sheep in a jungle or in a lonely place where there is the danger of its being eaten by a wolf, he should take it to his home and make it known for a year. He should give it to its owner if he comes, otherwise he may use it. In the case of camels, there is no fear of their loss in the jungle, as they have their feet and can cover a long distance to satisfy their hunger. Moreover, they fill their stomach with water and use it for many days. Hence one should not take stray camels.

1002. If the owner comes after the lapse of one year, and the man who found it had used it for his own purpose, he should either return it, or give its compensation.

(1703) The aforesaid tradition has also been transmitted by Zaid b. Khālid al-Juhanī through a different chain of narrators. This version has : The Apostle of Allah (may peace be upon him) was asked about a find. He then narrated the tradition like that of Rabi'ah. He was asked about a find. He replied : Make the matter known for a year ; if its owner comes, give it to him, otherwise note its string and its container, and have it along with your property. If its owner comes, deliver it to him.

(1704) The above-mentioned tradition has also been transmitted by Yahyā b. Sa'īd and Rabi'ah through the chain of narrators mentioned by Qutaibah to the same effect. This version adds : If its seeker comes, and recognises its container and its number, then give it to him. Hammād also narrated it from 'Ubad Allah b. 'Umar from 'Amr b. Shu'aib, from his father, from his grandfather from the Prophet (may peace be upon him) something similar.

Abū Dāwūd said : This addition made by Hammād b. Salamah b. Kuhail, Yahyā b. Sa'īd, 'Ubad Allah b. 'Umar and Rabi'ah : "If its owner comes, and recognises its container, and its string," is not guarded. The version narrated by 'Uqbah b. Suwaid on the authority of his father from the Prophet (may peace be upon him) has also the words : "Make it known for a year." The version of 'Umar b. al-Khaṭṭāb has also been transmitted from the Prophet (may peace be upon him). This version has : "Make it known for a year."

(1705) 'Iyād b. Ḥimār reported the Apostle of Allah (may peace be upon him) as saying : He who finds something should call one or two trusty persons as witnesses and not conceal it or cover it up ; then if he finds its owner he should return it to him, otherwise it is Allah's property which He gives to whom He will.<sup>1003</sup>

(1706) 'Amr b. Shu'aib, on his father's authority, said that his grandfather 'Abd Allah b. 'Amr b. 'Āṣ told that the Apostle of Allah (may peace be upon him) was asked about the hanging fruit. He replied : If a needy person takes some and does not take a supply away in his garment, he is not to be blamed, but he who carries any of it away is to be fined twice the value<sup>1004</sup> and punished, and he who steals any of it after it has been put in the place where dates are dried is to have his hand cut

1003. According to Abū Ḥanīfah and al-Shāfi'ī, calling one or two persons as witnesses to a find is obligatory. This is because the man who found something should not be tempted to change his mind of returning it to the owner. Mālik and al-Shāfi'ī (according to another statement) maintain that calling someone as witness to a find is commendable and not necessary. It is implied from the tradition that the witness is necessary (*'Awn al-Ma'būd* II, 62).

1004. The imposition of five times the value of a thing taken away was a punishment inflicted in the early days of Islam. Later on, it was repealed, and now no fine more than the value of a thing can be imposed. Further, the punishment of cutting off the hand was not inflicted as the gardens of palm trees in Medina were not protected by walls, as it is necessary for amputating the hands that the thing stolen should be guarded. Generally speaking, the fruits are as good as other property in respect of stealing (*'Awn al-Ma'būd*, II, 67).

off if its value reaches the price of a shield.<sup>1005</sup> Regarding stray camels and sheep he mentioned the same as others have done. He said : He was asked about finds and replied : If it is in a frequented road and a large town, make the matter known for a year, and if its owner comes, give it to him, but if he does not, it belongs to you. If it is in a place which has been a waste from ancient time, or if it is a hidden treasure (belonging to the Islamic period), it is subject to the payment of the fifth.<sup>1006</sup>

(1707) The above-mentioned tradition has also been transmitted by 'Amr b. Shu'aib through a different chain of narrators. This version adds : Regarding the stray sheep he said : "Take it."

(1708) The aforesaid tradition has also been transmitted by 'Amr b. Shu'aib through a different chain of narrators. This version has : He said about the stray sheep : You, your brother or the wolf may have them. Do take it. A similar version has been transmitted by Ayyūb and Ya'qūb b. 'Aṭā' from 'Amr b. Shu'aib from the Prophet (may peace be upon him). He said : Then take it.

(1709) The above-mentioned tradition has also been narrated by 'Amr b. Shu'aib from his father, from his grandfather from the Prophet (may peace be upon him) to the same effect. This version has : Regarding the stray sheep he said : Take it (and keep it with you) till its seeker comes to it.

(1710) Abū Sa'īd reported : 'Alī b. Abū Ṭālib found a dīnār and he took it to Fāṭimah. She asked the Apostle of Allah (may peace be upon him) about it. He said : This is Allah's provision. Then the Apostle of Allah (may peace be upon him) ate out of the food (bought with it), and 'Alī and Fāṭimah also ate out of that food. But afterwards a woman came crying out about the dīnār. The Prophet (may peace be upon him) said : Pay the dīnār, 'Alī.<sup>1007</sup>

(1711) Bilāl b. Yaḥyā al-'Absī said : 'Alī found a dīnār and purchased some flour with it. The seller of the flour recognised him and returned the dīnār to him. 'Alī took it, deducted two qīrāṭ (carat) from it, and purchased meat with it.<sup>1008</sup>

(1712) Sahl b. Sa'd said : 'Alī b. Abī Ṭālib entered upon Fāṭimah while Ḥasan

1005. The price of a shield during the Prophet's (may peace be upon him) time is reported to have been a quarter of a dīnār or three dirhams.

1006. The meaning of *riḥāz* is disputed among scholars of Iraq and Ḥijāz. According to the former, *riḥāz* means mines, while the latter maintain that it is applied to the hidden treasure since pre-Islamic days. In this tradition the law has been mentioned for two different things. One is the treasure found hidden in the earth. This is *riḥāz*. The other is the thing found on the surface of the earth in a wasteland, or on an unfrequented road. In both these cases one should pay one-fifth of the find to the government ('*Awṇ al-Ma'būd*, II, 67).

1007. As one dīnār was a petty amount the Prophet (may peace be upon him) did not make it known for one year. Further, he might have thought to pay the dīnār to the owner.

1008. Qīrāṭ (carat) is the twentieth part of a dīnār. It is twenty-fourth part of an ounce.

and Ḥusain were crying. He asked: Why are they crying? She replied: Due to hunger. 'Alī went out and found a dīnār in the market. He then came to Fāṭimah and told her about it. She said: Go to such and such a Jew and get some flour for us. He came to the Jew and purchased flour with it. He said: Are you the son-in-law of him who believes that he is the Apostle of Allah. He said: Yes. The Jew said: Have your dīnār with you, and you will get the flour. 'Alī then went out and came to Fāṭimah. He told her about the matter. She then said: Go to such and such a butcher and get some meat for us for a dirham. 'Alī went out and pawned the dīnār for a dirham with him and got the meat, and brought it (to her). She then kneaded the flour, put the utensil on fire, and baked the bread. She sent for her father (the Prophet). He came to them. She said to him: Apostle of Allah, I tell you all the matter. If you think it is lawful for us, we shall eat it and you will eat with us. She said: The matter is such-and-such. He said: Eat in the name of Allah. So they ate it. While they were (eating) at their place, a boy cried adjuring in the name of Allah and Islam; he was searching the dīnār. The Apostle of Allah (may peace be upon him) commanded and he was called in. He asked him. The boy replied: I lost it somewhere in the market. The Prophet (may peace be upon him) said: 'Alī, go to the butcher, and tell him that the Apostle of Allah (may peace be upon him) has asked you: Send the dīnār to me and one dirham of yours will be due on me. The butcher returned it and the Apostle of Allah (may peace be upon him) handed it to him (the boy).<sup>1009</sup>

(1713) Jābir b. 'Abd Allah said: The Apostle of Allah (may peace be upon him) gave us licence to use (for our purpose) a stick, a rope, a whip and things of that type which a man picked up; he may benefit from them.<sup>1010</sup>

Abū Dāwūd said: This tradition has been transmitted by al-Nu'mān b. 'Abd al-Salām from al-Mughīrah b. Abū al-Salamah through a different chain of narrators. The other version narrated by Shabābah from Mughīrah b. Muslim from Abū al-Zubair on the authority of Jābir, did not mention it from the Prophet (may peace be upon him).

(1714) Abū-Hurairah reported the Apostle of Allah (may peace be upon him) as saying: He who hides a stray camel shall pay a fine, and a like compensation

1009. This tradition indicates that the Prophet (may peace be upon him) did not ask 'Alī to make the dīnār known for a year according to the rule. To this many explanations have been proffered. First, a version narrated by al-Shāfi'ī shows that the Prophet (may peace be upon him) asked 'Alī to make it known for one year. Second, the traditions which indicate the stipulation of making the matter known for a year are more sound and authentic than this tradition transmitted by 'Alī. Third, it is not necessary to make the matter known for a year in trifling things. A dīnār is a small sum of money; hence there was no need of proclaiming it for a year (*ʿAwn al-Ma'būd*, II, 69).

1010. This shows that it is not necessary to make petty things known for a year as required by some traditions. One can use these trifling and small things for one's purpose.

with it.<sup>1011</sup>

(1715) 'Abd al-Rahmān b. 'Uthmān al-Taimī said: The Apostle of Allah (may peace be upon him) prohibited taking the find of pilgrims. Ibn Wahb said: One should leave the find of a pilgrim till its owner finds it.<sup>1012</sup>

Ibn Mawhib narrated it from 'Amr by saying the word "from" and not expressly indicating the word "report" or "narrate"

(1716) Al-Mundhir b. Jarīr said: I accompanied Jarīr at Bawāzīj.<sup>1013</sup> The shepherd brought the cows. Among them there was a cow that was not one of them. Jarīr asked him: What is this? He replied: This was mixed with the cows and we do not know to whom it belongs. Jarīr said: Take it out. I heard the Apostle of Allah (may peace be upon him) say: No one mixes a stray animal (with his animals) but a man who strays from right path.<sup>1014</sup>

1011. The imposition of double fine on a person who hides a stray camel is a sort of threat indicating the graveness of this crime. The jurists in general hold the view that an equal compensation will be paid by a person who hides it. Aḥmad b. Ḥanbal, however, takes this tradition literally and maintains that a double compensation should be imposed.

Besides, the narrator 'Ikrimah is doubtful whether or not he heard Abū Hurairah narrating this tradition. It is, therefore, a *mursal* tradition, i.e. the name of the Companion is not known ('*Awn al-Ma'būd*, II, 69).

1012. The find of a pilgrim is lawful for a person who takes it for making the matter known or keeps it with him as a deposit for the owner. This is indicated by a tradition recorded by al-Bukhārī and Muslim. No one is allowed to take the find of a pilgrim to use it for his own purpose. The find of a pilgrim is distinguished from ordinary finds ('*Awn al-Ma'būd*, II, 70).

1013. Name of a place.

1014. A tradition narrated by Muslim in his *Ṣaḥīḥ* goes: He who mixes a stray animal with his animals is a person who is led astray unless he makes the matter known. This shows that a man can retain a stray animal for making it known to the people and with the intention of returning it to the owner. What is prohibited is the hiding of the animal ('*Awn al-Ma'būd*, II, 70).



## IV. KITĀB AL-MANASIḲ WA'L-ḤAJJ

### [THE BOOK OF THE RITES OF ḤAJJ]

#### Chapter 568

#### rites of ḤAJJ

(1717) Ibn 'Abbās said: Aqra' b. Ḥābis asked the Prophet (may peace be upon him) saying: Apostle of Allah, Ḥajj<sup>1015</sup> is to be performed annually or only once? He replied: Only once, and if anyone performs it oftener, he performs a supererogatory act.<sup>1016</sup>

Abū Dāwūd said: The narrator Abū Sinān is Abū Sinān al-Du'awī. The same has been reported by both 'Abd al-Jalīl b. Ḥumaid and Sulaimān b. Kathīr from al-Zuhrī. The narrator 'Uqail reported the name "Sinān".

(1718) Abū Wāqid al-Laithī reported on the authority of his father: I heard the Apostle of Allah (may peace be upon him) saying to his wives during the Farewell Pilgrimage: This (is the pilgrimage for you); afterwards stick to the surface of the mats (i.e. should stay at home).<sup>1017</sup>

1015. Ḥajj is one of the five fundamentals of Islam. It was prescribed in 5 or 6 A.H. But the Prophet himself (may peace be upon him) performed Ḥajj in 10 A.H. as he could not find time due to his engagement in preaching Islam. Ḥajj is obligatory on those Muslims who are able, physically and financially, to make a journey to the Ka'bah from their homeland.

1016. The other versions of this tradition indicate that the Prophet (may peace be upon him) said that if he were to tell them that it was to be performed annually, they would not keep it nor would they be able to do so. As an obligatory duty, Ḥajj is to be performed only once during one's life. One may perform it many times, but that will be a supererogatory act.

1017. This tradition indicates that Ḥajj is to be performed as an obligatory duty only once in life. The tradition has been explained variously by commentators. First, this means that the Prophet (may peace be upon him) prohibited his wives to perform Ḥajj after the Farewell Pilgrimage. This is why 'Umar was reluctant to allow them to travel for Ḥajj during his caliphate. But towards the end of his regime he permitted them. Second, the prohibition of performing Ḥajj for his wives is not abundantly clear in this tradition. This might mean that the Prophet (may peace be upon him) allowed them to perform Ḥajj instead of taking part in battles (jihād) when he was asked by 'Ā'ishah to allow them to participate in battles. A tradition says that the best jihād for women is the Ḥajj blessed by Allah. Thus the Prophet (may peace be upon him) permitted women to travel for Ḥajj, and then stay at their homes. Third, Ḥajj is obligatory on a person who is able to perform it once in life, but is not forbidden to perform it oftener. Fourth, this might mean permission for the wives of the Prophet (may peace be upon him) to abandon Ḥajj after the Farewell Pilgrimage, and not



## Chapter 569

ON A WOMAN WHO JOURNEYS FOR *ḤAJJ* WITHOUT A MAN  
WHO IS WITHIN THE PROHIBITED DEGREE

(1719) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: A Muslim woman must not make a journey of a night unless she is accompanied by a man who is within the prohibited degrees.<sup>1018</sup>

(1720) Abū Hurairah reported the Prophet (may peace be upon him) as saying: A woman who believes in Allah and the Last Day must not make a journey of a day and a night. He then narrated the rest of the tradition to the same effect (as above).

The narrator al-Nuʿaimī said: Mālik narrated us.

Abū Dāwūd said: The narrators al-Nuʿaimī and al-Qaʿnabī did not mention the words "from his father".

Ibn Wahb and ʿUthmān b. ʿUmar narrated from Mālik the same words as narrated by al-Qaʿnabī (i.e. omitted the words "from his father").

(1721) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: He then reported the same tradition as mentioned above, but he mentioned (in this version) the word "mail post".<sup>1019</sup>

mean strict prohibition. They performed *Ḥajj* after the Farewell Pilgrimage during the caliphate of ʿUmar (*ʿAwn al-Maʿbūd*, II, 71-72).

1018. *Maḥram* is her husband or a relative with whom her marriage is forbidden eternally, such as father, son, brother, uncle, son-in-law and grandfather and others. According to Abū Ḥanīfah, it is necessary for a woman to travel for *Ḥajj* with a relative who is competent to be *maḥram* for her. If she does not find a *maḥram*, *Ḥajj* is not obligatory on her unless she finds such a person. ʿAṭāʾ, Ibn Jubair, Ibn Sīrīn, Mālik, al-Auzāʾi, and al-Shāfiʿī maintain that *maḥram* is not a necessary condition for the validity of *Ḥajj* of a woman. What is stipulated is the self-satisfaction of a woman about her protection and peace. This is achieved, according to the followers of al-Shāfiʿī, by the company of her husband, her relative with whom her marriage is eternally prohibited, and trustworthy women. *Ḥajj* is not obligatory on her unless she finds any one of them. Moreover, al-Shāfiʿī maintains that if she finds a trustworthy woman to accompany her during the journey for *Ḥajj*, she is allowed to perform it, though *Ḥajj* is not obligatory on her in such a situation.

As regards length of journey, it should be noted that there are diverse traditions on this subject indicating journey of one night up to the journey of three days or more. It appears that the variation in these traditions is due to the different questions posed to the Prophet (may peace be upon him) on different occasions about variety of situations. The reasonable length of journey, as transpires from various traditions, is a journey which obviously looks to be a journey and is considered so by the people. The Prophet (may peace be upon him) did not mention the minimum limit of the journey in the traditions. He simply meant that whenever there was a journey, a woman must accompany a *maḥram* (*ʿAwn al-Maʿbūd*, II, 72).

1019. The Arabic word is *barīd* which is equivalent to three farsakhs, and one farsakh measures three miles in length and one mile contains four thousand yards. This shows that a woman should not make a journey of twelve miles without the company of her *maḥram* (*ʿAwn al-Maʿbūd*, II, 73).

(1722) Abū Sa'īd reported the Apostle of Allah (may peace be upon him) as saying: A woman who believes in Allah and the Last Day must not make a journey of more than three days unless she is accompanied by her father or her brother, or her husband or her son or a relative who is within the prohibited degree.

(1723) Ibn 'Umar reported the Prophet (may peace be upon him) as saying: A woman must not make a journey of three days unless she is accompanied by a man who is within the prohibited degree.

(1724) Nāfi' said: Ibn 'Umar used to seat his slave-girl called Ṣafīyyah behind him (on the camel) and thus she travelled to Mecca in his company.<sup>1020</sup>

### Chapter 570

#### NO PERMISSION FOR FAILURE TO PERFORM ḤAJJ

(1725) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: Islam does not allow for failure to perform the Ḥajj.<sup>1021</sup>

### Chapter 571

#### BRINGING PROVISIONS FOR ḤAJJ

(1726) Ibn 'Abbās said: People used to perform Ḥajj and not bring provisions with them. Abū Mas'ūd said: The inhabitants of the Yemen, or the people of the Yemen, used to perform the Ḥajj and not bring provisions with them. They would declare: We put our trust in Allah. So Allah most high sent down: "And bring provisions, but the best provision is piety".<sup>1022</sup>

### Chapter 572

#### TRADING DURING ḤAJJ

(1727) Ibn 'Abbās recited this verse: "It is no sin for you that you seek the

1020. The master of the slave-girl is a *maḥram* for her.

1021. The Arabic word used here is *sarḥrah*. It means a person who does not perform the Ḥajj. Another meaning is abstinence from marriage. The tradition is explained in both ways, i.e. Islam does not allow a person who is competent to perform the Ḥajj to withhold himself from it, and it also does not allow celibacy. The former meaning applies here in the context of Ḥajj.

1022. Qur'ān, ii. 197. The version narrated by al-Bukhārī indicates that the people of the Yemen would not bring provisions with them and when they reached Mecca they used to beg from the people. This practice was prohibited in the Qur'ān. The people were asked to bring their own provisions and abstain from begging.

bounty of your Lord,<sup>1023</sup> and said: The people would not trade in Minā (during the *Ḥajj*), so they were commanded<sup>1024</sup> to trade when they proceeded from 'Arafāt.

### Chapter 573

(1728) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: He who intends to perform *Ḥajj* should hasten to do so.<sup>1025</sup>

### Chapter 574

#### HIRING RIDING BEASTS DURING *ḤAJJ*

(1729) Abū Umāmah al-Taimī said: I was a man who used to give (riding-beasts) on hire for this purpose (for travelling during the pilgrimage) and the people would tell (me): Your *Ḥajj* is not valid. So I met Ibn 'Umar and told him: Abū 'Abd al-Raḥmān, I am a man who gives (riding-beasts) on hire for this purpose (i.e. for *Ḥajj*), and the people tell me: Your *Ḥajj* is not valid. Ibn 'Umar replied: Do you not put on *ihram* (the pilgrim dress), call the *talbiyah*<sup>1026</sup> (*labbaik*), circumambulate the Ka'bah, return from 'Arafāt and lapidate *jamrahs*?<sup>1027</sup> I said: Why not? Then he said: Your *Ḥajj* is valid. A man came to the Prophet (may peace be upon him) and asked him the same question you have asked me. The Apostle of Allah (may peace be upon him) kept silence and did not answer him till this verse came down: "It is no sin for you that you seek the bounty of your Lord." The Apostle of Allah (may peace be upon him) sent for him and recited this verse to him and said: Your *Ḥajj* is valid.<sup>1028</sup>

(1730) 'Abd Allah b. 'Abbās said: The people used to trade, in the beginning,

1023. Qur'an, ii. 198.

1024. The people used to abstain from trading during the *Ḥajj* at Minā. This verse provides permission to trade at Minā during the *Ḥajj*. But that is only a permission and not a command.

1025. This shows that a man should perform *Ḥajj* immediately after he becomes competent. This is the view held by Abū Ḥanīfah, Mālik and a section of the followers of al-Shāfi'i. But al-Auzā'i, al-Shāfi'i, Abū Yūsuf and Muḥammad maintain that it is permissible to perform it later even after one becomes competent ('*Awān al-Ma'būd*, II, 75).

1026. *Talbiyah* is a formula of praising Allah repeated frequently after wearing *ihram* (pilgrim dress): "*Labbaiḥ* (I am at your service), O Allah, ; *labbaik* ; *labbaik* ; Thou hast no partner ; *labbaik* ; praise and grace are Thine, and the dominion ; Thou hast no partner."

1027. *Jamrah* literally means gravel or small pebbles. There are three pillars at Minā at which the pilgrims throw seven pebbles. They are known as the first, the middle and the last.

1028. It is no sin to give riding-beasts on hire during the *Ḥajj*. It is permissible trade or hiring beasts for the convenience of the pilgrims.

at Minā, 'Arafah, the market place of Dhū al-Majāz,<sup>1029</sup> and during the season of Ḥajj. But (later on) they became afraid of trading while they were putting on *iḥrām*. So Allah, glory be to Him, sent down this verse: "It is no sin for you that you seek the bounty of your Lord during the seasons of Ḥajj." 'Ubaid b. 'Umair told me that he (Ibn 'Abbās) used to recite this verse in his codex.<sup>1030</sup>

(1731) 'Abd Allah b. 'Abbās said: In the beginning when Ḥajj was prescribed, the people used to trade during the Ḥajj. The narrator then narrated the rest of the tradition up to the words, "season of Ḥajj"

### Chapter 575

#### ON THE VALIDITY OF A CHILD'S ḤAJJ

(1732) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) was at al-Rawḥā'. There he met some riders. He saluted them and asked who they were. They replied that they were Muslims. They asked: Who are you? They (the Companions) replied: He is the Apostle of Allah (may peace be upon him). A woman became upset; she took her child by his arm and lifted him from her litter at the camel. She said: Apostle of Allah, can this (child) be credited with having performed Ḥajj. He replied: Yes, and you will have a reward.<sup>1031</sup>

### Chapter 576

#### PLACES FOR PUTTING ON IḤRĀM (THE PILGRIM DRESS)

##### (MAWĀQIT)<sup>1032</sup>

(1733) Ibn Umar said: The Apostle of Allah (may peace be upon him) appointed the following places for putting on *iḥrām*: Dhū al-Ḥulaifah<sup>1033</sup> for the people of

1029. A place near 'Arafah.

1030. He used to include the words "during the season of Ḥajj" in the verse. It should be noted that these words are not the part of this verse as found in the copies of the Qur'ān current in our day. The commentators state that Ibn 'Abbās might recite these words as an explanation and commentary of the verse and not as part of it. Moreover, there are certain solitary (not generally accepted) readings of some verses of the Qur'ān. This reading might be one of them ('*Awān al-Ma'bad*, II. 75).

1031. Ḥajj performed by a child is valid, but that is supererogatory. If he survives and Ḥajj becomes obligatory on him after his puberty, he will have to perform it again. The parents get reward for Ḥajj performed by a child.

1032. *Mawāqit* is the plural of *miqāt* meaning the place appointed for putting on *iḥrām* for Ḥajj and 'Umrah.

1033. A place six miles distant from Medina on the way to Mecca.

Medina, al-Juhfah<sup>1034</sup> for the people of Syria, and al-Qarn<sup>1035</sup> for the people of Najd ; and I have been told that he appointed Yalamlam<sup>1036</sup> for the people of the Yemen.

(1734) Ibn 'Abbās and Ṭāwūs reported : The Apostle of Allah (may peace be upon him) appointed places for putting on *iḥrām*, and narrated the rest of the tradition to the same effect (as mentioned above). One of them said : And Yalamlam for the people of the Yemen. The other narrator said : Alamlam. These (places for *iḥrām*) are appointed for these regions, and for people of other regions who come to them intending to perform *Ḥajj* and '*Umrah*'. The place where those who live nearer to Mecca should put on *iḥrām* from where they start, and so on up to the inhabitants of Mecca itself who put on *iḥrām* in it. This is the version of Ibn Ṭāwūs.

(1735) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) appointed Dhāt 'Irq<sup>1037</sup> as the place for putting on *iḥrām* for the people of Iraq.

(1736) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) appointed al-'Aqīq as the place for putting on *iḥrām* for the people of East.<sup>1038</sup>

(1737) Umm Salamah said that she heard the Apostle of Allah (may peace be upon him) say : If anyone puts on *iḥrām* for *Hajj* or '*Umrah*' from the Aqṣā mosque to the sacred mosque, his former and latter sins will be forgiven, or he will be guaranteed Paradise. The narrator 'Abd Allah doubted which of these words he said.

Abū Dāwūd said : May Allah have mercy on Waki'. He put on *iḥrām* from Jerusalem (Aqṣā mosque), that is, to Mecca.

(1738) Al-Ḥārith b. 'Amr al-Sahmī said : I came to the Apostle of Allah (may peace be upon him) when he was at Minā, or at 'Arafāt. He was surrounded by the people. When the bedouins came and saw his face, they would say : This is a blessed face. He said : He (the Prophet) appointed Dhāt 'Irq as the place of putting on *iḥrām* for the people of Iraq.

## Chapter 577

### A MENSTRUATING WOMAN CAN PUT ON *IḤRĀM*

(1739) 'Ā'ishah said : Asmā'<sup>1039</sup> daughter of 'Umais gave birth to Muḥammad b.

1034. A place at a distance of eighty-two miles from Mecca.

1035. A mountain at a distance of two days' journey from Mecca.

1036. A mountain at a distance of two days' journey from Mecca.

1037. Dhāt 'Irq is a the name of a place near Mecca at a distance of two days' journey. It is disputed whether the Prophet (may peace be upon him) himself appointed this place for putting on the *iḥrām* or 'Umar. What is correct is that 'Umar had done so during his caliphate.

1038. Here the people of East means the people of Iraq. Al-Sulāṣī holds that it is commendable to put on *iḥrām* at al-'Aqīq for the inhabitants of Iraq.

1039. She was the wife of Abū Bakr.



Abī Bakr at Shajarah.<sup>1040</sup> The Apostle of Allah (may peace be upon him) commanded Abū Bakr to ask her to take a bath and wear *iḥrām*.<sup>1041</sup>

(1740) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: A menstruating woman and the one who delivered a child should take a bath, put on *iḥrām* and perform all the rites of *Ḥajj* except circumambulation of the House (Ka'bah) when they came to the place of wearing *iḥrām*.<sup>1042</sup>

Abū Ma'mar said in his version: "till she is purified". The narrator Ibn 'Isā did not mention the names of 'Ikrimah and Mujāhid, but he said: from 'Aṭā' on the authority of Ibn 'Abbās. Ibn 'Isā also did not mention the word "all (rites of *Ḥajj*).". He said in his version: All the rites of *Hajj* except circumambulation of the House (the Ka'bah).

### Chapter 578

#### USE OF PERFUME AT THE TIME OF WEARING *IḤRĀM*

(1741) 'Ā'ishah said: I used to perfume the Apostle of Allah (may peace be upon him) preparatory to his entering the sacred state before he put on *iḥrām*,<sup>1043</sup> and preparatory to putting off *iḥrām* before he made the circuits round the House<sup>1044</sup> (the Ka'bah).

(1742) 'Ā'ishah (may Allah be pleased with her) said: I still seem to see the glistening of the perfume where the hair was parted on the head of the Apostle of Allah (may peace be upon him) while he was wearing *iḥrām*.

1040. A place in Dhū al-Ḥulayfah.

1041. This tradition shows that a menstruating woman could put on *iḥrām* and perform all the rites of *Ḥajj* except circumambulation of the Ka'bah.

1042. The menstruating woman and the one who gave birth to a child can put on *iḥrām* at its proper place, and perform all the rites of *Ḥajj* except the circumambulation of the Ka'bah. They should perform circumambulation when they are purified.

1043. This tradition shows that it is commendable to use perfume before putting on *iḥrām* and it is permissible if the smell or colour of the perfume continues even after wearing *iḥrām*. But it is not allowed to use perfume after wearing *iḥrām*. This is the view held by the majority of the jurists.

1044. A pilgrim puts off *iḥrām* after the final circumambulation (*tawāf ifāḍah*), but he can use perfume after the lapidation of the three pillars at Minā. After lapidation only sexual intercourse is forbidden. It appears that the Prophet (may peace be upon him) had anaved his head, and lapidated the pillars; only circumambulation remained to put off *iḥrām*. At this stage 'Ā'ishah used perfume.

## Chapter 579

## ON MATTING THE HAIR

(1743) Ibn 'Umar said that he heard the Prophet (may peace be upon him) say with hair matted that he raised his voice in the *talbiyah*.<sup>1045</sup>

(1744) Ibn 'Umar said: The Prophet (may peace be upon him) matted his hair with honey.

## Chapter 530

## THE SACRIFICIAL ANIMALS

(1745) Ibn 'Abbās said: In the year of al-Ḥudaiblyyah, the Apostle of Allah (may peace be upon him) included among his sacrificial animals a camel with a silver nose-ring (Ibn Minhāl's version has gold) which had belonged to Abū Jahl (the version of al-Nufail added) "thereby enraging the polytheists".<sup>1046</sup>

## Chapter 581

## PERMISSION FOR SACRIFICING A COW (OR OX)

(1746) 'Ā'ishah, wife of the Prophet (may peace be upon him), stated: The Apostle of Allah (may peace be upon him) sacrificed a cow for his wives at the Farewell Pilgrimage.<sup>1047</sup>

(1747) Abū Hurairah said: The Apostle of Allah (may peace be upon him) sacrificed a cow for his wives who had performed 'Umrah.

1045. The hair were matted by the pilgrims to prevent the penetration of dirt and lice in them. These were matted with some sticking material. This was done by those pilgrims who remained in the state of *iḥrām* for a long time.

1046. Abū Jahl was a chief of the infidels at Mecca. He was killed at Badr. He had been hostile to the Prophet (may peace be upon him) throughout his life. The Prophet (may peace be upon him) took his camel which he got in the booty to Mecca and slaughtered it as a sacrifice on the occasion of *Ḥajj*. This was designed to enrage the Meccan infidels who would have seen the camel of their chief slaughtered.

1047. This shows that a cow or an ox can be sacrificed at *Ḥajj*. Further, this also indicates that one can sacrifice an animal on behalf of one of his relatives or another Muslim. Some other traditions show that seven persons can share a cow or a camel as a sacrifice.

## Chapter 582

TO MAKE INCISION IN THE BODY OF THE  
SACRIFICIAL ANIMALS

(1748) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) offered the noon prayer at Dhū al-Ḥulaifah. He then sent for a camel and made incision in the right side of its hump;<sup>1048</sup> he then took out the blood by pressing it, and tied two shoes in its neck.<sup>1049</sup> He then rode on his mount (camel) and reached al-Baiḍā', he raised his voice for the *talbiyah* for performing *Ḥajj*.

(1749) This tradition has also been transmitted by Shu'bah through a different chain of narrators similar to that reported by Abū al-Walīd. This version adds: He then took out the blood by pressing it with his hand.

Abū Dāwūd said: Hammām's version has the words: "He took out the blood by pressing with his fingers".

Abū Dāwūd said: This tradition has been narrated by the people of Baṣrah who alone are its transmitters.

(1750) Al-Miswar b. Makhramah and al-Marwān said: The Apostle of Allah (may peace be upon him) proceeded in the year of al-Ḥudaibīyah<sup>1050</sup> (to Mecca). When he reached Dhū al-Ḥulaifah, he tied (garlanded) something in the neck of the sacrificial camel (which he took along with him), and made incision in its hump, and put on *iḥrām*.

(1751) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) once brought sheep (or goats) for sacrifice to the House (at the Ka'bah) and garlanded them.

## Chapter 583

## CHANGE OF SACRIFICIAL ANIMAL

(1752) 'Abd Allah b. 'Umar said: 'Umar b. al-Khaṭṭāb named a *bukhtī*<sup>1051</sup> camel

1048. To make incision in the body of the sacrificial animal during *Ḥajj* is commendable. This view is held by all the scholars except Abū Ḥanīfah. He maintained that it was a sort of disfiguration. It is said that Abū Ḥanīfah held this view after he had seen excessive injuries while making incision in the humps of the sacrificial animals at Kūfah.

1049. This indicates that to dye the shoes in the blood of the sacrificial animals and tie them in their necks is commendable. This view is held by the majority of scholars. But Mālik and Abū Ḥanīfah do not allow tying the shoes in the necks of goat or sheep.

1050. The Prophet (may peace be upon him) proceeded from Medina in 6 A.H. with the intention of performing *Umrāh* at Mecca.

1051. This is a Khurāsānī camel, which is more sturdy and strong.

for sacrifice (at *Hajj*). He was offered three hundred *dīnārs* for it (as its price). He came to the Prophet (may peace be upon him) and said: Apostle of Allah, I named a *bukhtī* camel for sacrifice and I was offered for it three hundred *dīnārs*. May I sell it and purchase another one for its price? He replied: No, sacrifice it.<sup>1052</sup>

Abū Dāwūd said: This was due to the fact that 'Umar had made an incision in its hump.

### Chapter 584

#### ON A PERSON WHO SENDS HIS SACRIFICIAL ANIMAL TO MECCA AND STAYS HIMSELF AT HOME

(1753) 'Ā'ishah said: I twisted the garlands of the sacrificial camels of the Apostle of Allah (may peace be upon him) with my own hands, after which he made incision in their humps and garlanded them, and sent them as offerings to the House (Ka'bah), but he himself stayed back at Medina, and nothing which had been lawful for him had been forbidden.<sup>1053</sup>

(1754) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) would send the sacrificial animals as offerings (to Mecca) from Medina. I would twist the garlands of his sacrificial animals; thereafter he would not abstain from anything from which a pilgrim putting on *iḥrām* abstains.<sup>1054</sup>

(1755) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) sent sacrificial camels as offering (to the Ka'bah), and I twisted with my own hands their garlands of coloured wool that we had with us. Next morning he came free from restrictions, having intercourse (with his wife), as a man not wearing *iḥrām* does with his wife.<sup>1055</sup>

1052. This shows that it is not permissible to change or sell the sacrificial animal.

1053. When one is not performing *Hajj*, one is not subject to the laws and restrictions applicable to them who perform the *Hajj*.

1054. Al-Nawawī said: This indicates the commendability of sending sacrificial animals as offerings to the Ka'bah, though one may not go there oneself. Moreover, this also shows that the man who sends the animals to the Ka'bah does not become a pilgrim who wears *iḥrām*, nor are the restrictions of *iḥrām* applicable to him. This is the opinion of the majority of scholars. Ibn 'Abbās, Ibn 'Umar, 'Aṭā' and Sa'īd b. Jubair are reported to have held that restrictions of *iḥrām* are applicable to him, but he does not become *muḥrim* (a man wearing *iḥrām*) without making intention. The opinion of the majority is correct ('*Awn al-Ma'būd*, II, 81).

1055. The Prophet (may peace be upon him) had intercourse after sending the camels to the Ka'bah as he was not subject to the restrictions of *iḥrām*.

## Chapter 585

## RIDING ON THE SACRIFICIAL CAMEL

(1756) Abū Hurairah said : The Apostle of Allah (may peace be upon him) saw a man driving the sacrificial camel. He said : Ride on it. He said : This is a sacrificial camel. He again said : Ride on it, bother you, either the second or the third time he spoke.<sup>1056</sup>

(1757) Abū al-Zubair said : I asked Jābir b. 'Abd Allah about riding on the sacrificial camels. He said : I heard the Apostle of Allah (may peace be upon him) saying : Ride on them gently when you have nothing else, till you find a mount.<sup>1057</sup>

## Chapter 586

WHAT A MAN SHOULD DO IF A SACRIFICIAL  
ANIMAL BECOMES FATIGUED ON ITS  
WAY TO MECCA

(1758) Nājiyat al-Aslamī said : The Apostle of Allah (may peace be upon him) sent sacrificial camels with him (as offering to the Ka'bah). He then said : If any one of them becomes fatigued, slaughter it, dip its shoes in its blood, and leave it for the people (to eat).<sup>1058</sup>

(1759) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) sent a man of al-Aslam tribe, and sent with him eighteen sacrificial camels (as offering to Mecca). He asked : What do you think if anyone of them becomes fatigued ? He replied : You should sacrifice it, then dye its shoe with its blood, then mark with it on its neck. But you or any of your companions should not eat out of it.

Abū Dāwūd said : The following words of this tradition are not supported by any other tradition : "you should not eat of it yourself nor any of your companions".

The version of 'Abd al-Wārith has the words : "then hang it in its neck" instead of the words "mark or strike with it"

Abū Dāwūd said : I heard Abū Salamah say : If the chain of narrators and the

1056. This shows that it is permissible to ride on the sacrificial camels. Abū Ḥanīfah holds that one should ride in case there is no other alternative. Al-Shāfi'ī and Mālik hold that one can ride in case one is in need of it. Riding is not allowed without need. According to Aḥmad (and Mālik as another statement goes), one can ride unconditionally (*Awn al-Ma'būd*, II, 81).

1057. This shows that ordinarily a man should not ride on the sacrificial camel until he is forced to do so. If he has another mount, he should better use it. This is the view held by Abū Ḥanīfah.

1058. This shows that if a sacrificial camel becomes fatigued on the way to Mecca, and it is nearing death, the pilgrim should slaughter it and let the people eat it.



meaning are correct, it is sufficient for you.<sup>1059</sup>

(1760) 'All said : When the Apostle of Allah (may peace be upon him) sacrificed the camels, he sacrificed thirty of them with his own hand, and then commanded me (to sacrifice them), so I sacrificed the rest of them.

(1761) 'Abd Allah b. Qurṭ reported the Apostle of Allah (may peace be upon him) as saying : The greatest day in Allah's sight is the day of sacrifice and next the day of resting<sup>1060</sup> which 'Isā said on the authority of Thawr is the second day. Five or six sacrificial camels were brought to the Apostle of Allah (may peace be upon him) and they<sup>1061</sup> began to draw near to see which he would sacrifice first. When they fell down dead, he said something in a low voice, which I could not catch. So I asked : What did he say ? He was told that he had said : Anyone who wants can cut off a piece.

(1762) 'Arfaḥ b. al-Ḥārith al-Kandī said : I was present with the Apostle of Allah (may peace be upon him) at the Farewell Pilgrimage. When the sacrificial camels were brought to him, he said : Call Abū al-Ḥasan ('All) to me. 'Alī was then called for and he (the Prophet) said to him : Catch hold of the lower end of the lance, and the Apostle of Allah (may peace be upon him) himself caught hold of the upper end. He then pierced the camels with it. When he finished slaughtering, he rode on his mule and mounted 'All behind him.

### Chapter 587

#### HOW ARE THE CAMELS SACRIFICED ?

(1763) 'Abd al-Raḥmān b. Thābit said : The Prophet (may peace be upon him) and his Companions used to sacrifice the camel with its left leg tied and it remained standing on the rest of his legs.<sup>1062</sup>

(1764) Ziyād b. Jubair said : I was present with Ibn 'Umar at Minā. He passed a man who was sacrificing his camel while it was sitting. He said : Make it stand and tie its leg ; thus follow the practice (*sunnah*) of Muḥammad (peace be upon him).

1059. If a narrator does not remember the actual words of a tradition, but he remembers the meaning and the chain of it, he can narrate it in his own words.

1060. *Yawm al-qarr* is 11th of Dhū al-Ḥijjah when the pilgrims take rest at Minā after the final circumambulation of the Ka'bah.

1061. The suggestion is that each one of the camels was coming forward towards him coveting the blessing of being sacrificed first. This is said to be the miracle of the Prophet (may peace be upon him).

1062. This is established and approved method of sacrificing camels. Al-Shāfi'i and Aḥmad hold that the camels should be sacrificed standing. Abū Ḥanīfah maintains that they can be sacrificed standing or sitting. Other animals such as cow and sheep should be sacrificed by laying them on earth ('*Awn al-Ma'būd*, II, 83).

(1765) 'Alī said : The Apostle of Allah (may peace be upon him) commanded me to take charge of (his) sacrificial camels, and to distribute their skins and saddle-cloths (after sacrifice) as *ṣadaqah*. He commanded me not to give anything from it to the butcher. He said : We used to give it (the wages) to the butcher ourselves.<sup>1063</sup>

### Chapter 588

#### THE TIME PRESCRIBED FOR WEARING *IHRĀM*

(1766) Sa'īd b. Jubair said : I said to 'Abd Allah b. 'Abbās : Abū al-'Abbās, I am surprised to see the difference of opinion amongst the Companions of the Apostle (may peace be upon him) about the wearing of *ihrām* by the Apostle of Allah (may peace be upon him) when he made it obligatory on him. He replied : I am aware of it more than the people. The Apostle of Allah (may peace be upon him) performed only one *Ḥajj*. Hence the people differed among themselves. The Apostle of Allah (may peace be upon him) came out (from Medina) with the intention of performing *Ḥajj*. When he offered two *rak'ahs* of prayer in the mosque at Dhū al-Ḥulaifah, he made it obligatory on him by wearing it in the same meeting, he raised his voice in the *talbiyah* for *Ḥajj*, when he finished his two *rak'ahs*. Some people heard it and I retained it from him. He then rode (on the she-camel), and when it (the she-camel) stood up, with him on its back, he raised his voice in the *talbiyah* and some people heard it at that moment. This is due to the fact that the people were coming in groups, so they heard him raising his voice calling the *talbiyah* when his she-camel stood up with him on its back, and they thought that the Apostle of Allah (may peace be upon him) had raised his voice in the *talbiyah* when his she-camel stood up with him on its back. The Apostle of Allah (may peace be upon him) proceeded further ; when he ascended the height of al-Baiḍā'<sup>1064</sup> he raised his voice in the *talbiyah*. Some people heard it at that moment. They thought that he had raised his voice in the *talbiyah* when he ascended the height of al-Baiḍā'. I swear by Allah, he raised his voice in the *talbiyah* at the place where he prayed, and he raised his voice in the *talbiyah* when his she-camel stood up with him on its back, and he raised his voice in the *talbiyah* when he ascended the height of al-Baiḍā'.<sup>1065</sup>

1063. This shows that the skin, flesh or any other thing should not be given to the butcher as his wages. His wages should be paid separately.

1064. Al-Baiḍā' is near Dhū al-Ḥulaifah.

1065. There is a difference of opinion amongst scholars about the place where the Prophet (may peace be upon him) had put on *ihrām* and raised his voice in the *talbiyah*. The situation has been explained by Ibn 'Abbās in this tradition. It is better to wear *ihrām* in the mosque at Dhū al-Ḥulaifah after praying two *rak'ahs*. The scholars, however, allowed to wear *ihrām* and raise the voice in *talbiyah* when the camel stands up or one ascends the height of al-Baiḍā'.

Sa'Id (b. Jubair) said : He who follows the view of Ibn 'Abbās raises his voice in *talbiyah* (and wears *iḥlām*) at the place of his prayer after he finishes two *rak'ahs* of his prayer.

(1767) Ibn 'Umar said : This is your al-Baiḍā' about which you ascribe falsehood to the Apostle of Allah (may peace be upon him). He did not raise his voice in *talbiyah* but from the mosque, that is, the mosque of Dhū al-Ḥulaifah.

(1768) 'Ubaid b. Juraij said to 'Abd Allah b. 'Umar : Abū 'Abd al-Raḥmān, I saw you doing some acts which I did not see being done by your companions. He asked : What are they, Ibn Juraij ? He replied : I saw you not touching but the two Yamānī corners ;<sup>1066</sup> and I saw you wearing the shoes having no hair ; I saw you dyeing in yellow colour ; and I saw you wearing *iḥrām* on the eighth of Dhū al-Ḥijjah, whereas the people had worn *iḥrām* when they sighted the moon. 'Abd Allah b. 'Umar replied : As regards the corners, I have not seen the Apostle of Allah (may peace be upon him) touching anything (in the Ka'bah) but the two Yamānī corners. As for the shoes having no hair, I have seen the Apostle of Allah (may peace be upon him) wearing the shoes that had no hair, and he would wear them after ablution. Therefore I like to wear them. As regards dyeing in yellow colour, I have seen the Apostle of Allah (may peace be upon him) dyeing in the yellow colour, so I like to dye with it. As regards shouting *talbiyah*, I have seen the Apostle of Allah (may peace be upon him) raising his voice in *talbiyah* when his she-camel stood up with him on its back.

(1769) Anas said : The Apostle of Allah (may peace be upon him) prayed four *rak'ahs* at Medina, and prayed two *rak'ahs* of afternoon prayer at Dhū al-Ḥulaifah. He then passed the night at Dhū al-Ḥulaifah till the morning came. When he rode on his mount, and it stood up with him on its back, he raised his voice in *talbiyah*.

(1770) Anas b. Mālīk said : The Prophet (may peace be upon him) offered the noon prayer, and then rode on his mount. When he came to the hill of al-Baiḍā', he raised his voice in *talbiyah*.

(1771) Sa'd (b. Abī Waqqāṣ) said : When the Prophet of Allah (may peace be upon him) undertook his journey by the way of al-Far',<sup>1067</sup> he shouted *talbiyah* when his mount stood up with him on its back. But when he travelled by the way of Uḥud, he raised his voice in *talbiyah* when he ascended the hill of al-Baiḍā'.

### Chapter 589

#### MAKING PROVISIO BEFORE PERFORMING *Hajj*

(1772) Ibn 'Abbās said : Ḍubā'ah, daughter of al-Zubair b. 'Abd al-Muṭṭalib,

1066. The corner containing the Black Stone and the Yamānī corner to the south-east.

1067. Name of a place between Mecca and Medina.

came to the Apostle of Allah (may peace be upon him) and said : Apostle of Allah, I want to perform Ḥajj ; may I make a proviso ? He said : Yes. She asked : How should I say ? He replied : Say : "Labbaik Allāhumma labbaik (I am at Thy service, O Allah, I am at Thy service). The place where I take off *iḥrām* will be where Thou restrainest me." <sup>1068</sup>

### Chapter 590

#### TO PERFORM ḤAJJ EXCLUSIVELY WITHOUT PERFORMING 'UMRAH IN THE BEGINNING (IFRĀD)

(1773) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) performed Ḥajj exclusively (without performing 'Umrah in the beginning). <sup>1069</sup>

1068. This tradition shows that if a man makes a proviso before proceeding for Ḥajj he can take off *iḥrām* at the place where he is detained. In the absence of such a proviso, no one is allowed to take off *iḥrām*. This view is held by 'Alī, Ibn Mas'ūd and 'Umar and some other Companions. This is also held by Aḥmad, Ishāq, Abū Thawr and al-Shāfi'ī. But Abū Ḥanīfah, Mālik and a group of Successors maintain that making a proviso is not valid. Al-Khaṭṭābī said : This shows that a man can take off his *iḥrām* at the place where he is detained, and he can sacrifice his animal there, disregarding the fact that the place where he is detained is *ḥaram* (sacred and protected area around the Ka'bah) or not. The Prophet (may peace be upon him) did the same when he was detained at al-Ḥudaibiyah. Abū Ḥanīfah maintains that the man detained should not take off his *iḥrām* until his sacrificial animal reaches the *ḥaram*. He should send his sacrificial animal through some other person and wait till it reaches there. The animal should be sacrificed in the *ḥaram* and not outside it ('*Awn al-Ma'būd*, II, 85).

1069. Ḥajj is of three types, namely, *ifrād*, *tamattu'*, and *qirān*. *Ifrād* means to single out. Technically, it means to wear *iḥrām* with the intention of performing Ḥajj and then to perform it during the sacred months. After performing Ḥajj one performs 'Umrah. This is called *ifrād*, for the pilgrim does not perform 'Umrah before Ḥajj. *Tamattu'* means to take benefit from both Ḥajj and 'Umrah. During the sacred months of Ḥajj a pilgrim wears *iḥrām* with the intention of performing 'Umrah. After performing it he takes off *iḥrām* and then performs Ḥajj after wearing *iḥrām* for it at the proper time. In *tamattu'* a man performs 'Umrah in the beginning and then performs Ḥajj. There is a break between the two. *Qirān* means to combine the two, i.e. 'Umrah and Ḥajj. To perform *qirān* a pilgrim wears *iḥrām* with the intention of performing both 'Umrah and Ḥajj. He who performs *qirān* performs 'Umrah in the beginning and then performs Ḥajj. He does not take off *iḥrām* till he performs Ḥajj. The difference between *tamattu'* and *qirān* is that in the case of the former one takes off *iḥrām* after performing 'Umrah and then performs Ḥajj ; but in the case of the latter one remains all along in the state of *iḥrām* till one is free from Ḥajj.

'Umrah should also be explained here. One can perform 'Umrah at any time. No months are specified for it. To perform 'Umrah a man wears *iḥrām* with the same intention at the appointed place and then goes round the Ka'bah seven times. Thereafter he runs between the hills of Ṣafā' and Marwah seven times. Here 'Umrah ends.

It is disputed amongst scholars whether the Prophet (may peace be upon him) performed *ifrād*, *tamattu'* or *qirān*. It is also disputed which of the three is most excellent ('*Awn al-Ma'būd*, II, 86).

(1774) 'Ā'ishah said : We went out along with the Apostle of Allah (may peace be upon him) when the moon of the month of Dhū al-Ḥijjah was going to appear shortly. When he reached Dhū al-Ḥulaifah, he said : Anyone who wants to perform *Hajj* should raise his voice in *talbiyah* for *Hajj* (after wearing *iḥrām*) ; and he who wants to perform *'Umrah* should raise his voice in *talbiyah* for an *'Umrah*. The narrator Mūsā in the version of Wuhaib reported him (the Prophet) as saying ; If there were no sacrificial animals with me, I would raise my voice in *talbiyah* for an *'Umrah*.<sup>1070</sup> But, according to the version of Ḥammād b. Salamah, he said : As for myself, I shall raise my voice in *talbiyah* for *Hajj* because I have sacrificial animal with me. The agreed version goes : I ('Ā'ishah) was one of those persons who wore *iḥrām* for an *'Umrah*. But on my way (to Mecca) I menstruated. The Apostle of Allah (may peace be upon him) entered upon me while I was weeping. He asked : Why are you weeping ? I wished I would not come out (for *Hajj*) this year. He said : Give up your *'Umrah* ; untie your hair, and comb. The version of Mūsā says : And raise your voice in *talbiyah* for *Hajj* (after wearing *iḥrām*). Sulaimān's version goes : And do as all the Muslims do during their *Hajj*. When the night for performing the obligatory circumambulation (*ṭawāf al-ziyārah*) came, the Apostle of Allah (may peace be upon him) commanded 'Abd al-Raḥmān. He took her to al-Tan'īm.<sup>1071</sup> The version of Mūsā added : She raised her voice in *talbiyah* for an *'Umrah* (instead of the words "her *'Umrah*"). She went round the Ka'bah. Allah thus completed both her *'Umrah* and *Hajj*.

Hishām said : No sacrificial animal was offered during all this time.

In the version of Ḥammād b. Salamah, the narrator Mūsā added : When the night of al-Baṭḥā came, 'Ā'ishah was purified.

(1775) 'Ā'ishah, wife of the Prophet (may peace be upon him), narrated : We went out with the Apostle of Allah (may peace be upon him) at the Farewell Pilgrimage. Some of us had put on *iḥrām* for *'Umrah*, and some both for *Hajj* and *'Umrah*, and the Apostle of Allah (may peace be upon him) had put on *iḥrām* for *Hajj* only. He who had put on *iḥrām* for *'Umrah* put off *iḥrām* after performing *'Umrah* and he who had worn *iḥrām* both for *Hajj* and *'Umrah* or only for *Hajj* did not take it off till the tenth (of the month).

(1776) The aforesaid tradition has also been narrated by Abū al-Aswad through a different chain of narrators. This version adds : He who raises his voice in *talbiyah*

1070. One cannot take off *iḥrām* if one carries the sacrificial animal to Mecca. As the Prophet (may peace be upon him) had sacrificial animals with him, he wore *iḥrām* for *Hajj*. This shows that he performed *ifrād*.

1071. A place outside the sacred territory (*ḥaram*) near Mecca. Nowadays the people wear *iḥrām* for *'Umrah* at this place.



for 'Umrah (and wearing *iḥrām* for it) should put off *iḥrām* after performing 'Umrah).<sup>1072</sup>

(1777) 'Ā'ishah, the wife of the Prophet (may peace be upon him) said : We went out with the Apostle of Allah (may peace be upon him) at the Farewell Pilgrimage and raised our voice in *talbiyah* for an 'Umrah. The Apostle of Allah (may peace be upon him) said : Those who have brought the sacrificial animals with them should raise their voices in *talbiyah* for Ḥajj along with an 'Umrah, and they should not put off their *iḥrām* till they do so after performing them both.<sup>1073</sup> I came to Mecca while I was menstruating, and I did not go round the House (the Ka'bah) or run between al-Ṣafā' and al-Marwah. I complained about this to the Apostle of Allah (may peace be upon him). He said : Undo your hair, comb it, and raise your voice in *talbiyah* for Ḥajj and let 'Umrah go. She said : I did so. When we performed Ḥajj, the Apostle of Allah (may peace be upon him) sent me along with 'Abd al-Raḥmān b. Abū Bakr to al-Tan'im, and I performed 'Umrah. He said : This is 'Umrah in place of the one you had missed. She said : Those who had raised their voices in *talbiyah* for 'Umrah put off *iḥrām* after circumambulating the House (the Ka'bah) and after running between al-Ṣafā' and al-Marwah. then they performed another circumambulation for their Ḥajj after they returned from Minā. But those who combined Ḥajj and 'Umrah performed only one circumambulation.<sup>1074</sup>

(1778) 'Ā'ishah said : We raised our voices in *talbiyah* for Ḥajj. When we reached Sarif,<sup>1075</sup> I menstruated. The Apostle of Allah (may peace be upon him) came upon me while I was weeping. He asked : Why are you weeping, 'Ā'ishah? I replied : I menstruated. Would that I had not come out for performing Ḥajj. He said : Glory be to Allah, this is a thing prescribed by Allah on the daughters of Adam. He said : Perform all the rites of Ḥajj but do not go round the House (the Ka'bah).<sup>1076</sup> When we entered Mecca, the Apostle of Allah (may peace be upon him) said : He who desires to make (his Ḥajj) an 'Umrah may do so, except those who have sacrificial

1072. The Prophet (may peace be upon him) said this to those pilgrims who had worn *iḥrām* for 'Umrah but did not bring sacrificial animals with them. But those who wore *iḥrām* for 'Umrah with them were asked to put it off after sacrificing them.

1073. Those who bring the sacrificial animals along with them cannot take off their *iḥrām* until they perform both 'Umrah and Ḥajj.

1074. Only one circumambulation is sufficient for those who wear *iḥrām* for *qirān*. This is the view held by 'Atā', al-Ḥasan Mālik, al-Shāfi'ī. Aḥmad and Ishāq. But Abū Ḥanīfah maintains that those who wear *iḥrām* for *qirān* should perform two circumambulations and two races between al-Ṣafā' and al-Marwah. He contends that 'Umrah and Ḥajj are two different worships, and their rites should be performed separately. This is a view reportedly held by Abū Bakr, 'Umar, 'Alī, Ibn Mas'ūd. But the ascription is not correct ('*Awn al-Ma'būd*, II, 87).

1075. A place between Mecca and Medina.

1076 This shows that a menstruating woman, one who delivered a child, a sexually defiled person, can perform all the rites of Ḥajj except circumambulation and prayer.

animals with them.<sup>1077</sup> The Apostle of Allah (may peace be upon him) sacrificed a cow on behalf of his wives on the day of sacrifice. When the night of al-Baṭḥā'<sup>1078</sup> came, and 'Ā'ishah was purified, she said to the Apostle of Allah (may peace be upon him): My fellow female pilgrims will return after performing *Hajj* and '*Umrah* and I shall return after performing only *Hajj*? He therefore ordered 'Abd al-Raḥmān b. Abū Bakr who took her to al-Tan'īm. She uttered there *talbiyah* for '*Umrah*.

(1779) 'Ā'ishah said: We went out with the Apostle of Allah (may peace be upon him), and we thought it nothing but a *Hajj*: When we came, we circumambulated the House (the Ka'bah). The Apostle of Allah (may peace be upon him) then commanded those who did not bring the sacrificial animals with them to take off their *iḥrām*. Therefore those who did not bring the sacrificial animals with them took off their *iḥrām*.

(1780) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying: If I had known beforehand about my affair what I have come to know later, I would not have brought the sacrificial animals with me. The narrator Muḥammad (b. Yaḥyā) said: I think he ('Uthmān b. 'Umar) said: and I would have taken off my *iḥrām* with those who have put their *iḥrām* after performing '*Umrāh*.<sup>1079</sup>

He said: By this he intended that all the people might have performed equal rites (of *Hajj*).

(1781) Jābir said: We went out along with the Apostle of Allah (may peace be upon him) raising our voices in *talbiyah* for *Hajj* alone (*ifrād*) while 'Ā'ishah raised her voice in *talbiyah* for an '*Umrah*. When she reached Sarif,<sup>1080</sup> she menstruated. When we came (to Mecca) we circumambulated the Ka'bah and ran between al-Ṣafā' and al-Marwah. The Apostle of Allah (may peace be upon him) then commanded us that those who had not brought sacrificial animals with them should put off their

1077. This injunction was peculiar to that year when the Prophet (may peace be upon him) performed *Hajj*. Generally speaking, a pilgrim who wears *iḥrām* with the intention of performing *Hajj* cannot change it to that for '*Umrah*. As the people were not aware of the injunctions of *Hajj* he allowed them to change their '*Umrah* for *Hajj*. Moreover, the Arabs in the pre-Islamic days would not perform '*Umrah* during the sacred months of *Hajj*. Hence some of them put on *iḥrām* for *Hajj* and some for '*Umrah*.

1078. Meaning that 'Ā'ishah was purified on one of the nights when the pilgrims stay at Minā' on the 10th of Dhū al-Ḥijjah. Al-Baṭḥā' is the name of Minā'.

1079. As the Prophet (may peace be upon him) brought the sacrificial animals with him, he could not take off his *iḥrām* along with other Companions. He said these words to pacify those who were aggrieved to see that they had taken off their *iḥrām* but the Prophet (may peace be upon him) did not do so. Further, this shows that he would prefer to perform *tamattu'* if he had known beforehand about the change of his mind. From this it can be inferred that he gave preference to *tamattu'* over *ifrād*.

1080. A place between Mecca and Medina.

*iḥrām* (after 'Umrah). We asked: Which acts are lawful (and which not)? He replied: All acts are lawful (that are permissible usually). We had, therefore, intercourse with our wives, used perfume, and put on our clothes. There remained only four days to perform *Ḥajj* at 'Arafah. We then raised our voice in *talbiyah* (wearing *iḥrām* for *Ḥajj*) on the eighth of Dhū al-Ḥijjah, The Apostle of Allah (may peace be upon him) entered upon 'Ā'ishah and found her weeping. He said: What is the matter with you? She said: My problem is that I have menstruated; while the people have put off their *iḥrām* but I have not done so, nor did I go round the House (the Ka'bah). Now the people are proceeding for *Ḥajj*. He said: This is a thing destined by Allah for the daughters of Adam. Take a bath, then raise your voice in *talbiyah* for *Ḥajj* (i.e. wear *iḥrām* for *Ḥajj*). She took a bath and performed all the rites of *Ḥajj* (lit. she stayed at all those places where the pilgrims stay). When she was purified, she circumambulated the House (the Ka'bah), and ran between al-Ṣafā' and al-Marwah. He (the Prophet) said: Now you have performed both your *Ḥajj* and your 'Umrah. She said: Apostle of Allah, I have some misgiving in my mind that I did not go round the Ka'bah when I performed *Ḥajj* (in the beginning). He said: 'Abd al-Raḥmān (her brother), take her and have her perform 'Umrah from al-Tan'im. This happened on the night of al-Ḥaṣbah (i.e. the fourteenth of Dhū al-Ḥijjah).

(1782) The aforesaid tradition has also been transmitted by Jābir through a different chain of narrators. This version has: The Prophet (may peace be upon him) said: Raise your voice in *talbiyah* for *Ḥajj* and then perform *Ḥajj*, and do as all the pilgrims do, except that you should not circumambulate the House (the Ka'bah) and should not pray.

(1783) Jābir b. 'Abd Allah said: We raised our voices in *talbiyah* along with the Apostle of Allah (may peace be upon him) exclusively for *Ḥajj*, not combining anything with it. When we came to Mecca, four days of Dhū al-Ḥijjah had already passed. We then circumambulated (the Ka'bah) and ran between al-Ṣafā' and al-Marwah. The Apostle of Allah (may peace be upon him) then commanded us to put off *iḥrām*. He said: If I had not brought the sacrificial animals, I would have taken off *iḥrām*. Surāqah b. Mālik then stood up and said: Apostle of Allah, what do you think, have you provided this facility to us for this year alone, or for ever? The Apostle of Allah (may peace be upon him) said: No, this is for ever and for ever.

Al-Awzā'i said: I heard 'Aṭā' b. Abī Rabāḥ narrating this tradition, but I did not memorise it till I met Ibn Juraij who confirmed it for me.

(1784) Jābir said: The Apostle of Allah (may peace be upon him) and his Companions came (to Mecca) on the fourth of Dhū al-Ḥijjah. When they circumambulated the Ka'bah and ran between al-Ṣafā' and al-Marwah, the Apostle of Allah (may peace be upon him) said: Change this (*Ḥajj*) into 'Umrah, except those who have brought the sacrificial animals with them. When the eighth of Dhū al-Ḥijjah came, they raised

their voices in *talbiyah* for *Hajj*. When the tenth of Dhū al-Ḥijjah came, they circumambulated the Ka'bah, but did not run between al-Ṣafā' and al-Marwah.<sup>1081</sup>

(1785) Jābir b. 'Abd Allah said: The Apostle of Allah (may peace be upon him) and his Companions raised their voices in *talbiyah* for *Hajj*. No one of them had brought sacrificial animals with him except the Prophet (may peace be upon him) and Ṭalḥah. 'Alī (may Allah be pleased with him) had returned from the Yemen and had brought sacrificial animals with him. He said: I raised my voice in *talbiyah* for which the Apostle of Allah (may peace be upon him) raised his voice. The Prophet (may peace be upon him) commanded his Companions to change it into '*Umrah*, and clip their hair after running (between al-Ṣafā' and al-Marwah), and then take off their *iḥrām*, except those who brought the sacrificial animals with them. They remarked: Should we go to Minā with our penises dripping with prostatic fluid?<sup>1082</sup> These remarks reached the Apostle of Allah (may peace be upon him). Thereupon he said: Had I known beforehand about my affair what I have come to know later, I would not have brought sacrificial animals. Had I not brought sacrificial animals with me, I would have put off my *iḥrām*.<sup>1083</sup>

(1786) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying: This is an '*Umrah* from which we have benefited. Anyone who has not brought sacrificial animal with him should take off *iḥrām* totally. '*Umrah* has been included in *Hajj* till the Day of Judgment.<sup>1084</sup>

1081. They did not run between al-Ṣafā' and al-Marwah as they had already done this earlier. He who does not run between these two hills in the beginning should do so after the last-circumambulation, But no time is fixed for running.

1082. As the Prophet (may peace be upon him) did not put off *iḥrām* before *Hajj*, some people did not like to put off their *iḥrām*. They thought that it was quite strange to proceed for *Hajj* to Minā and 'Arafāt shortly after having intercourse with their wives. This practice was not consistent with the rites of *Hajj*. Hence they were reluctant to take off their *iḥrām* just a few days before *Hajj*, thus making everything lawful. Moreover, in the pre-Islamic days they believed that '*Umrah* was not permissible during the days of *Hajj*.

1083. This he said to satisfy those Companions who were reluctant to put off their *iḥrām* before *Hajj*: The Prophet (may peace be upon him) himself would put off *iḥrām*, if he did not bring the sacrificial animals with him.

1084. There is a difference of opinion amongst scholars about the interpretation of this statement. A group of scholars takes it as obligatory like *Hajj*. The other group does not consider it necessary. Those who take it as obligatory are 'Umar, Ibn 'Umar, Ibn 'Abbās, Aṭā', Ṭāwūs, Mujāhid, al-Ḥasan, Ibn Sīrīn, al-Sha'bī, Sa'īd b. Jubair, al-Shāfi'ī, Ahmad, Ishāq, Abū 'Ubaid and al-Thawrī. They interpret it by saying that the actions of '*Umrah* have been included in the actions of *Hajj*. Therefore a man who performs *qirān* is required to perform one circumambulation and one running between al-Ṣafā' and al-Marwah, as he wears *iḥrām* only once. The other interpretation is that the time of '*Umrah* has been included in the time of *Hajj* and in its months. The Arabs would not perform '*Umrah* during the months of *Hajj* before the advent of Islam. The Prophet (may peace be upon him) nullified this wrong belief and allowed the Muslims to perform '*Umrah* during *Hajj* season. Those who



Abū Dāwūd said: This is a *munkar* (uncommon) tradition. This is in fact the statement of Ibn 'Abbās himself.<sup>1085</sup>

(1787) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying: If a man raises his voice in *talbiyah* for Ḥajj, then he comes to Mecca, goes round the House (the Ka'bah), and runs between al-Ṣafā' and al-Marwah, he may take off his *iḥrām*. That will be considered as *iḥrām* for 'Umrah.

Abū Dāwūd said: Ibn Juraij narrated from a man on the authority of 'Aṭā' that the Companions of the Prophet (may peace be upon him) entered (Mecca) raising their voices in *talbiyah* for Ḥajj alone, but the Prophet (may peace be upon him) changed it into 'Umrah.

(1788) Ibn 'Abbās said: The Prophet (may peace be upon him) raised his voice in *talbiyah* for Ḥajj. When he came (to Mecca) he went round the House (the Ka'bah) and ran between al-Ṣafā' and al-Marwah. The narrator Ibn Shawkar said: He did not clip his hair, nor did he take off his *iḥrām* due to sacrificial animals. But he commanded those who did not bring sacrificial animals with them to go round the Ka'bah, to run between al-Ṣafā' and al-Marwah, to clip their hair, and then put off their *iḥrām*. The narrator Ibn Manī' added: "Or shave their heads, then take off their *iḥrām*."

(1789) Sa'īd b. al-Musayyib said: A man from the Companions of the Prophet (may peace be upon him) came to 'Umar b. al-Khaṭṭāb (may Allah be pleased with him). He bore witness before him that when he (the Prophet) was suffering from a disease of which he died he heard the Apostle of Allah (may peace be upon him) prohibiting performing of 'Umrah before Ḥajj.<sup>1086</sup>

regard it as not necessary contend that its obligatory nature has been repealed by Ḥajj. It remained no longer necessary like Ḥajj. This is the meaning of including 'Umrah into Ḥajj ('*Awn al-Ma'būd*, II, 90).

1085. Al-Mundhirī is of opinion that the statement of Abū Dāwūd is not correct. This tradition has been narrated as a statement of the Prophet (may peace be upon him) directly by Aḥmad b. Ḥanbal, Muḥammad b. al-Muthannā, Muḥammad b. Bashshār, and 'Uthmān b. Abī Shaibah from Muḥammad b. Ja'far on the authority of Shu'bah. This has also been transmitted by Yazīd b. Hārūn, Mu'adh al-'Anbarī, Abū Dāwūd, al-Ṭayālīsī and 'Umar b. Marzūq on the authority of Shu'bah as a direct statement of the Prophet (may peace be upon him). The criticism on some narrators by some doctors of traditions does not affect this tradition ('*Awn al-Ma'būd*, II, 90).

1086. Al-Khaṭṭābī said that the chain of narrators of this tradition was weak. Al-Mundhirī said that what is correct is that Sa'īd b. al-Musayyib did not hear anything from 'Umar b. al-Khaṭṭāb.

This tradition contradicts a number of sound traditions on this subject. The Prophet (may peace be upon him) himself performed 'Umrah twice before performing Ḥajj. The consensus of scholars has been reached on the permission of performing 'Umrah before Ḥajj.

This tradition might mean that it is commendable to perform Ḥajj before 'Umrah because the former is obligatory. Or, the time of Ḥajj has been appointed, but no time has been specified for 'Umrah. One can perform it any time during the year ('*Awn al-Ma'būd*, II, 90-91).



(1790) Mu'āwiyah b. Abī Sufyān said to the Companions of the Prophet (may peace be upon him) : Do you know that the Apostle of Allah (may peace be upon him) prohibited from doing so and so (and he prohibited from) riding on the skins of leopards ? They said : Yes. He again said : You know that he prohibited combining *Ḥajj* and *ʿUmrah* They replied : This we do not (know). He said : This was prohibited along with other things, but you forgot.<sup>1087</sup>

### Chapter 591

#### ON COMBINING *ḤAJJ* AND *ʿUMRAH* (*QIRĀN*)

(1791) Anas b. Mālik said : I heard the Apostle of Allah (may peace be upon him) uttering *talbiyah* (labbaik) aloud for both *Ḥajj* and *ʿUmrah*. He was saying in a loud voice : *Labbaik* for *ʿUmrah* and *Ḥajj*, *labbaik* for *ʿUmrah* and *Ḥajj*.<sup>1088</sup>

(1792) Anas said : The Prophet (may peace be upon him) passed the night at Dhū al-Ḥulāifah till the morning came. He then rode (on his she-camel) which stood up with him on her back. When he reached al-Baiḍā', he praised Allah, glorified Him, and expressed His greatness. He then raised his voice in *talbiyah* for *Ḥajj* and *ʿUmrah*. The people too raised their voices in *talbiyah* for both of them. When we came (to Mecca), he ordered the people to take off their *iḥrām* and they did so. When the eighth of Dhū al-Ḥijjah came, they again raised their voices in *talbiyah* for *Ḥajj* (i.e. wore *iḥrām* for *Ḥajj*). The Apostle of Allah (may peace be upon him) sacrificed seven camels standing with his own hand.

Abū Dāwūd said : The version narrated by Anas alone has the words : He began with the praise, glorification, and exaltation (of Allah) ; then he raised his voice in

1087. It should be noted that all the Companions did not agree with Mu'āwiyah or support him on this view. According to the majority of scholars, *qirān* has preference over *ifrād* has *tamattu'*. A group of scholars maintain that *ifrād* has preference over *qirān* and *tamattu'*.

It is to be noted, that there is a confusion in the chain of this tradition.

1088. When a pilgrim intends to perform the *qirān*, he wears *iḥrām* at the appointed place for both *ʿUmrah* and *Ḥajj*. After performing *ʿUmrah*, he does not take off *iḥrām*, but he puts off it after *Ḥajj*.

There is a difference of opinion amongst scholars about the type of *Ḥajj* the Prophet (may peace be upon him) performed. Those who hold that he had performed the *qirān* (i.e. combined *ʿUmrah* and *Ḥajj*) argue on the basis of this tradition. But the traditions narrated by Ibn 'Umar and 'Ā'ishah and others indicate that he had performed only *Ḥajj*. The correct and generally accepted view is that in the beginning he raised his voice in *talbiyah* for only *Ḥajj*. But later on he included *ʿUmrah* in his *Ḥajj* ; thus he became *qārīn* (one who performed the *qirān*). The traditions on this subject can be harmonised by saying that Ibn 'Umar described his early action and Anas narrated his subsequent action. ('*Awn al-Ma'būd*, II, 91).

*talbiyah* for Ḥajj.

(1793) Al-Barā' b. 'Azib said : I was with 'Alī (may Allah be pleased with him) when the Apostle of Allah (may peace be upon him) appointed him the governor of the Yemen. I collected some ounces of gold during my stay with him. When 'Alī returned from the Yemen to the Apostle of Allah (may peace be upon him) he said : I found that Fāṭimah had put on coloured clothes and the smell of the perfume she had used was pervading in the house. (He expressed his amazement on the use of coloured clothes and perfume.) She said : What is odd with you ? The Apostle of Allah (may peace be upon him) has ordered his Companions to put off their *iḥrām* and they did so. 'Alī said : I said to her : I raised my voice in *talbiyah* for which the Prophet (may peace be upon him) raised his voice (i.e. I wore *iḥrām* for *qirān*). Then I came to the Prophet (may peace be upon him). He asked (me) : How did you do ? I replied : I raised my voice in *talbiyah*, for which the Prophet (may peace be upon him) raised his voice. He said : I have brought the sacrificial animals with me and combined 'Umrah and Ḥajj. He said to me : Sacrifice sixty-seven or sixty-six camels (for me) and withhold for yourself thirty-three or thirty-four ;<sup>1089</sup> and withhold a piece (of flesh) for me from every camel.

(1794) Al-Ṣubayy b. Ma'bad said : I raised my voice in *talbiyah* for both of them (i.e. 'Umrah and Ḥajj). Thereupon 'Umar said : You were guided to the practice (*sunnah*) of your Prophet (may peace be upon him).<sup>1090</sup>

(1795) Ṣubayy b. Ma'bad said : I was a Christian bedouin ; then I embraced Islam. I came to a man of my tribe who was called Hudhaim b. Thurmulah. I said to him : O thou, I am covetous for waging war in the path of Allah (i.e. *jihād*), and I find that both Ḥajj and 'Umrah are due on me. How can I combine them ? He said : Combine them and sacrifice the animal made easily available for you. I, therefore, raised my voice in *talbiyah* for both of them (i.e. 'Umrah and Ḥajj). When I reached

1089. Two explanations have been offered for this sentence : "First, sacrifice on my behalf sixty-six or sixty-seven camels and sacrifice the remaining for yourself." This explanation implies that all the camels were sacrificed by 'Alī himself and not by the Prophet (may peace be upon him). But this is not correct. It is already established on the basis of other sound traditions that the Prophet (may peace be upon him) himself sacrificed sixty-three camels (according to the tradition recorded by Muslim) with his own hand. Therefore, this explanation does not hold good. Second, this might mean that the Prophet (may peace be upon him) had asked 'Alī to drive and present the camels before him at the place of sacrifice in Minā. He slaughtered a number of them with his own hand, and the rest of them were slaughtered by 'Alī. But the words of the tradition do not agree with this explanation. There is some confusion in the version narrated by Abū Dāwūd.

The correct number of camels slaughtered by the Prophet (may peace be upon him) is sixty-three and not the one transmitted by Abū Dāwūd ('*Awn al-Ma'būd*, II, 92).

1090. This shows that the Prophet (may peace be upon him) performed *qirān*, and it is more excellent than other types of Ḥajj.

al-'Udhaib,<sup>1091</sup> Salmān b. Rabī'ah and Zaid b. Ṣūhān met me while I had raised my voice in *talbiyah* for both of them. One of them said to the other : This (man) does not have understanding more than his camel. Thereupon as if a mountain fell on me. I came to 'Umar b. al-Khaṭṭāb (may Allah be pleased with him) and said to him : Commander of the Faithful, I was a Christian bedouin, and I have embraced Islam. I am covetous for waging war in the path of Allah (*jihād*), and I found that both *Hajj* and 'Umrah were due on me. I came to a man of my tribe who said to me : Combine both of them and sacrifice the animal easily available for you. I have raised my voice in *talbiyah* for both of them. 'Umar thereupon said to me : You have been guided to the practice (*ṣunnah*) of your Prophet (may peace be upon him).<sup>1092</sup>

(1796) 'Umar b. al-Khaṭṭāb heard the Apostle of Allah (may peace be upon him) say : Someone came to me at night from Allah, the Exalted—the narrator said : When he was staying at 'Aqlq and said : Pray in this blessed valley. Then he said : 'Umrah has been included in *Hajj*.

Abū Dāwūd said : Al-Walīd b. Muslim and 'Umar b. 'Abd al-Wāḥid narrated in this version from al-Auzā'i the words : "And say : An 'Umrah included in *Hajj*."

Abū Dāwūd said : 'All b. al-Mubārak has also narrated similarly from Yaḥya b. Abī Kathīr in this version : "And say : An 'Umrah included in *Hajj*."

(1797) Al-Rabī' b. Saburah said on the authority of his father (Saburah) : We went out along with the Apostle of Allah (may peace be upon him) till we reached 'Uṣfān, Surāqah b. Mālik al-Mudlajī said to him : Apostle of Allah, explain to us like the people as if they were born today.<sup>1093</sup> He said : Allah, the Exalted, has included this 'Umrah in your *Hajj*. When you come (to Mecca), and he who goes round the House (the Ka'bah), and runs between al-Ṣafā' and al-Marwah, is allowed to take off *iḥrām* except he who has brought the sacrificial animals with him.

(1798) Ibn 'Abbās said that Mu'āwiyah reported to him : I clipped some hair of the Prophet's (may peace be upon him) head with a broad iron arrowhead at al-Marwah ; or (he said) I saw him that the hair of his head was clipped with a broad iron arrowhead at al-Marwah.<sup>1094</sup>

1091 Name of a watering place belonging to Tamīm at one day's journey from Kūfah.

1092. The Companions who met this bedouin forbade him from combining 'Umrah and *Hajj* because 'Umar b. al-Khaṭṭāb had prohibited their combination. His prohibition was generally known to the people, but this bedouin did not know it. 'Umar nevertheless allowed him to combine because that was the *ṣunnah* of the Prophet (may peace be upon him). It was due to certain reasons that 'Umar prohibited the combination, but he himself believed in its permissibility.

1093. He requested the Prophet (may peace be upon him) to explain the injunctions of *Hajj* clearly, as explained to a man who does not know anything as if he was born today.

1094. Mu'āwiyah might be referring to 'Umrah performed from al-Ji'rānah, for it is established that the Prophet (may peace be upon him) got his head shaved at Minā at the Farewell Pilgrimage. This also does not refer to 'Umrah al-Qaḍā' performed in 7 A.H. because Mu'āwiyah was not a Muslim at that time. He embraced Islam in 8 A.H. ('*Awān al-Ma'būd*, II, 94).

The narrator Ibn Khaṭṭāb said in his version : "Mu'āwiyah said" and not the word "reported"

(1799) Ibn 'Abbās said that Mu'āwiyah told him : Do you not know that I clipped the hair of the head of the Apostle of Allah (may peace be upon him) with a broad iron arrowhead at al-Marwah ?

Al-Ḥasan added in his version : "during his Ḥajj."<sup>1095</sup>

(1800) Ibn 'Abbās said : The Prophet (may peace be upon him) raised his voice in *talbiyah* for 'Umrah and his Companions for Ḥajj.

(1801) 'Abd Allah b. 'Umar said : At the Farewell Pilgrimage the Apostle of Allah (may peace be upon him) put on *iḥrām* first for 'Umrah and afterwards for Ḥajj,<sup>1096</sup> and drove the sacrificial animals along with him from Dhū al-Ḥulaifah. The Apostle of Allah (may peace be upon him) first raised his voice in *talbiyah* for 'Umrah and afterwards he did so for Ḥajj ; and the people along with the Apostle of Allah (may peace be upon him) did it first for 'Umrah and afterwards for Ḥajj. Some of the people had brought sacrificial animals and others had not, so when the Apostle of Allah (may peace be upon him) came to Mecca, he said to the people : Those of you who have brought sacrificial animals must not treat as lawful anything which has become unlawful for you till you complete your Ḥajj ; but those of you who have not brought sacrificial animals should go round the House (the Ka'bah) and run between al-Ṣafā' and al-Marwah, clip their hair, put off *iḥrām*, and afterwards raise their voice in *talbiyah* for Ḥajj and bring sacrificial animals. Those who cannot get sacrificial animals should fast three days during Ḥajj and seven days when they return to their families. The Apostle of Allah (may peace be upon him) then performed circumambulation when he came to Mecca, first touching the corner, then running during three circuits out of seven, and walking during four, and when he had finished his circumambulation of the House (the Ka'bah) he prayed two *rak'ahs* at Maqām Ibrāhīm, then giving the salutation and departing he went to al-Ṣafā' and ran seven times between al-Ṣafā' and al-Marwah. After that he did not treat anything as lawful which had become unlawful for him till he had completed his Ḥajj, sacrificed his animals on the day of sacrifice, went quickly and performed the circumambulation of the House (the Ka'bah), after which all that had been unlawful became lawful for him. Those people who had brought sacrificial animals did as the Apostle of Allah (may peace be upon him) did.

(1802) Ḥafṣah, wife of the Prophet (may peace be upon him), said : Apostle of

1095. By Ḥajj is probably meant 'Umrah performed by the Prophet (may peace be upon him) from al-Ji'rānah, a place on the way from Mecca to al-Ṭā'if.

1096. The phrase used is *tamatta'a bi'l-'Umrah ila'l-Ḥajj* which literally means "he gained the advantage of 'Umrah waiting till the time for Ḥajj." In the text it has been translated so as to give the general meaning.

Allah, how is it that the people have put off their *iḥrām* and you did not put off your *iḥrām* after your 'Umrah. He said : I have matted my hair and garlanded my sacrificial animal, so I shall not put off my *iḥrām* till I sacrifice my sacrificial animals.

### Chapter 592

#### ON A PERSON WHO RAISES HIS VOICE IN *TALBIYAH* FOR *Hajj*, AND AFTERWARDS CHANGES IT INTO 'UMRAH

(1803) Abū Dharr used to say about a person who makes the intention of *Hajj* but he repeals it for the 'Umrah (that will not be valid). This cancellation of *Hajj* for 'Umrah was specially meant for the people who accompanied the Apostle of Allah (may peace be upon him).<sup>1097</sup>

(1804) Bilāl b. al-Hārith reported on the authority of his father : I asked : Apostle of Allah, is the (command of) cancelling *Hajj* meant exclusively for us, or for others too ? He replied : No, this is meant exclusively for you.<sup>1098</sup>

### Chapter 593

#### ON A PERSON WHO PERFORMS *Hajj* ON BEHALF OF ANOTHER PERSON

(1805) 'Abd Allah b. 'Abbās said : Al-Faḍl b. 'Abbās was riding the camel behind the Apostle of Allah (may peace be upon him). A woman of the tribe of Khath'am came seeking his (the Prophet's) decision (about a problem relating to *Hajj*).

1097. In pre-Islamic days the people were not allowed to perform 'Umrah during the months of *Hajj*. The Prophet (may peace be upon him) changed *Hajj* and ordered to perform 'Umrah to repeal the custom that prevailed before Islam. It is disputed whether this cancellation of *Hajj* was meant only for Companions who accompanied him during *Hajj* or that was a permanent and regular command. Can a person who wears *iḥrām* for *Hajj* cancel it and perform 'Umrah before *Hajj* ? According to Abū Ḥanīfah, Mālik and al-Shāfi'ī, this change was meant exclusively for the Companions who accompanied the Prophet (may peace be upon him). No one can cancel *Hajj* and perform 'Umrah now instead of *Hajj*. He can put off *iḥrām* after the completion of *Hajj*. But Aḥmad b. Ḥanbal and the Zāhirīs maintain that this change was a regular commandment and can be followed till the Day of Judgment. This view is supported by a number of traditions of the Prophet (may peace be upon him) narrated by Abū Dāwūd himself before.

1098. In *Zād al-Ma'ād* (I, 208), Ibn al-Qayyim said : We bear witness in the name of Allah that the tradition narrated by Bilāl b. al-Hārith is not sound. It has been wrongly attributed to the Prophet (may peace be upon him). How can it be a genuine tradition of the Prophet (may peace be upon him) when Ibn 'Abbās used to give his opinion on this matter against this tradition ? He did so before the Companions of the Prophet (may peace be upon him) in public gatherings and on one of them criticised him.



Al-Faḍl began to look at her and she too began to look at him. The Apostle of Allah (may peace be upon him) would turn the face of Faḍl to the other side. She said: Apostle of Allah, Allah's commandment that His servants should perform *Ḥajj* has come when my father is a very old man, and is unable to sit firmly on a camel. May I perform *Ḥajj* on his behalf? He said: Yes. That was at the Farewell Pilgrimage.<sup>1099</sup>

(1806) Abū Razīn reported: A man of Banū 'Āmir said: Apostle of Allah, my father is very old, he cannot perform *Ḥajj* or 'Umrah himself nor can he ride on a mount. He said: Perform *Ḥajj* and 'Umrah on behalf of your father.<sup>1100</sup>

(1807) Ibn 'Abbās said that the Prophet (may peace be upon him) heard a man say: *Labbaik* (always ready to obey) on behalf of Shubrumah. He asked: Who is Shubrumah? He replied: A brother or relative of mine. He asked: Have you performed *Ḥajj* on your own behalf? He said: No. He said: perform *Ḥajj* on your own behalf, then perform it on behalf of Shubrumah.<sup>1101</sup>

## Chapter 594

### HOW IS TALBIYAH TO BE UTTERED ?

(1808) Ibn 'Umar said: *Talbiyah* uttered by the Apostle of Allah (may peace be upon him) was: *Labbaik* (always ready to obey), O Allah *labbaik, labbaik*; Thou hast no partner, praise and grace are Thine, and the dominion, Thou hast no partner. The narrator said: 'Abd Allah b. 'Umar used to add to his *talbiyah*: *Laibbaik, labbaik, labbaik wa sa'daik* (give me blessing after blessing); and good is in Thy hands: desire and action are directed towards Thee.<sup>1102</sup>

1099. This shows that *Ḥajj* by proxy is permissible in case the man is unable to perform it himself due to certain valid reason like old age or death. It is not permissible in case a man is suffering from some disease and is hopeful that he will recover. This rule applies to a person on whom *Ḥajj* is incumbent. But *Ḥajj* by proxy is allowed in the case of supererogatory *Ḥajj* ('*Awn al-Ma'būd*, II, 97).

1100. There is a difference of opinion amongst scholars about the obligatoriness of 'Umrah. Al-Shāfi'i, Ishāq, Aḥmad and a group of the traditionists take it as obligatory while Abū Ḥanīfah and Mālik do not hold it to be obligatory ('*Awn al-Ma'būd*, II, 97).

1101. This tradition obviously indicates that a man who has not performed *Ḥajj* on his own behalf cannot perform it on behalf of the other. This is the view held by al-Shāfi'i and other. According to Sufyān al-Thawrī, one can perform *Ḥajj* on another's behalf whether or not one has performed *Ḥajj* himself.

1102. *Talbiyah* means to shout *labbaik* (always ready to obey and respond to your call). The pilgrims utter these words when they wear *iḥram* for *Ḥajj* or 'Umrah. The repetition of this formula frequently during *Ḥajj* is one of the most important rites of *Ḥajj*. The actual words of the *talbiyah* are those uttered by the Prophet (may peace be upon him). The words added by Ibn 'Umar himself are not necessary. *Talbiyah* indicates that a pilgrim has abandoned everything for Allah, and now he is every moment at His service, ready to obey, and prepared to respond to His Call.

(1809) Jābir b. 'Abd Allah said: The Apostle of Allah (may peace be upon him) raised his voice in *talbiyah*; he then mentioned the wordings of *talbiyah* like the tradition narrated by Ibn 'Umar. The people used to add the words *dha'l-ma'ārif* (the Possessor of ladders) and similar other words (to *talbiyah*) while the Prophet (may peace be upon him) heard them utter these words, but he did not say anything to them.<sup>1103</sup>

(1810) Khallād b. al-Sā'ib al-Anṣārī on his father's authority reported the Apostle of Allah (may peace be upon him) as saying: Gabriel came to me and commanded me to order my Companions to raise their voices in *talbiyah*.

### Chapter 595

#### WHEN *TALBIYAH* SHOULD BE DISCONTINUED

(1811) Al-Faḍl b. 'Abbās said: The Apostle of Allah (may peace be upon him) uttered *talbiyah* till he threw pebbles at Jamrat al-'Aqabah.<sup>1104</sup>

(1812) 'Abd Allah b. 'Umar said: We proceeded along with the Apostle of Allah (may peace be upon him) from Minā to 'Arafāt; some of us were uttering *talbiyah* and others were shouting "Allah is most great."<sup>1105</sup>

1103. There is no harm if some words are added to *talbiyah* which indicate the praise of Allah.

There are four viewpoints about *talbiyah*: First, this is a *sunnaḥ* like other *sunan*, and no fine is imposed in case it is omitted. This is the view held by al-Shāfi'ī and Aḥmad. Second, this is an obligatory duty, and a sacrifice is incumbent if it is omitted. This is maintained by Abū Ḥanīfah, Mālik and al-Shāfi'ī. Third, this is obligatory, but can be replaced by other words relating to *Ḥajj*. If a man, for instance, utters the words "Allah is most great," or "There is no god but Allah," or "Glory be to Allah," then wears *iḥrām*, that will be valid. Fourth, this is a necessary part of *iḥrām* which is not valid without *talbiyah* ('*Awn al-Ma'būd*, II, 99).

1104. *Jamrahs* are three pillars at Minā. The pilgrims throw pebbles at them. Jamrat al-'Aqabah is the last pillar. There is a difference of opinion as to when *talbiyah* should be discontinued. Sufyān al-Thawrī, Abū Ḥanīfah and al-Shāfi'ī hold that *talbiyah* should be stopped along with the throwing of the first pebble. Aḥmad and Ishāq maintain that *talbiyah* should be discontinued when one finishes throwing the pebbles seven times. They are also reported as saying that one should continue shouting *talbiyah* till the sun passes the meridian on the day of 'Arafah. Al-Ḥasan is of opinion that one should discontinue *talbiyah* after saying the morning prayer on the day of 'Arafah.

Mālik maintains that it is disapproved to utter *talbiyah* by a person who is not wearing *iḥrām*, but other jurists allow uttering *talbiyah* by such a person ('*Awn al-Ma'būd*, II, 100).

1105. This shows that the utterance of both *talbiyah* and "Allah is most great" is commendable while going from Minā to 'Arafāt. To exalt Allah is permissible, though *talbiyah* is preferable.

## Chapter 596

WHEN TALBIYAH SHOULD BE STOPPED BY  
A PILGRIM WHO PERFORMS 'UMRAH

(1813) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying: A person who performs 'Umrah should shout *talbiyah* till he touches the Black Stone.<sup>1106</sup>

Abū Dāwūd said: This tradition has been narrated by 'Abd al-Mālik b. Abī Sulaimān, and Hammām from 'Aṭā' on the authority of Ibn 'Abbās as his own statement (i.e. the tradition was not attributed to the Prophet).

## Chapter 597

ON A MAN WHO BEATS HIS SLAVE WHILE  
HE IS IN THE SACRED STATE  
(WEARING IḤRĀM)

(1814) Asmā', daughter of Abū Bakr, said: We came out for performing Ḥajj along with the Apostle of Allah (may peace be upon him). When we reached al-'Araj,<sup>1107</sup> the Apostle of Allah (may peace be upon him) alighted and we also alighted; 'Ā'ishah sat beside the Apostle of Allah (may peace be upon him) and I sat beside my father (Abū Bakr). The equipment and personal effects of Abū Bakr and of the Apostle of Allah (may peace be upon him) were placed with Abū Bakr's slave on a camel. Abū Bakr was sitting and waiting for his arrival. He arrived but he had no camel with him. He asked: Where is your camel? He replied: I lost it last night. Abū Bakr said: There was only one camel, even that you have lost. He then began to beat him while the Apostle of Allah (may peace be upon him) was smiling and saying: Look at this man who is in the sacred state (putting on *iḥrām*), what is he doing?

Ibn Abī Rizmah said: The Apostle of Allah (may peace be upon him) spoke nothing except the words: Look at this man who is in the sacred state (wearing *iḥrām*), what is he doing? He was smiling (when he uttered these words).<sup>1108</sup>

1106. This shows that a person who performs 'Umrah should discontinue *talbiyah* when he touches the Black Stone. This is the view held by Sufyān, al-Shāfi'ī, Aḥmad and Ishāq. Al-Tarmidhī says that the tradition narrated by Ibn 'Abbās is sound and followed by a majority of scholars ('*Awn al-Ma'būd*, II, 100).

1107. Name of a place between Mecca and Medina.

1108. It is worthy of note that beating, brawling, abusing, quarrelling and similar other acts are forbidden during Ḥajj. But as this was a serious case, Abū Bakr beat his slave to teach him sense of responsibility.

## Chapter 598

ON A PERSON WHO PUTS ON HIS CLOTHES  
AS *IḤRĀM*

(1815) Ya'la b. Umayyah said : A man came to the Prophet (may peace be upon him) when he was at al-Ji'rānah.<sup>1109</sup> He had the bearing of perfume<sup>1110</sup> or the mark of saffron on him and he was wearing a tunic. He said : Apostle of Allah, how do you command me that I should do while performing my 'Umrah. In the meantime, Allah the Exalted, sent revelation to the Prophet (may peace be upon him). When he (the Prophet) came to himself gradually, he asked : Where is the man who was asking about 'Umrah ? (When the man came) he (the Prophet) said : Wash the perfume which is on you, or he said : (Wash) the mark of saffron (the narrator is doubtful), take off the tunic, then do in your 'Umrah as you do in your *Hajj*.<sup>1111</sup>

(1816) This tradition has also been narrated by Ya'la b. Umayyah through a different chain of narrators. This version adds : The Prophet (may peace be upon him) said to him : Take off your tunic. He then took it off from his head. The narrator then narrated the rest of the tradition.

(1817) This tradition has also been transmitted by Ya'la b. Umayyah through a different chain of narrators. This version adds : The Apostle of Allah (may peace be upon him) commanded him to take it off (the tunic), and to take a bath twice or thrice.<sup>1112</sup> The narrator then transmitted the rest of the tradition.

(1818) It is narrated by Ya'la b. Umayyah that a man came to the Prophet (may peace be upon him) at Ji'rānah, putting on *iḥrām* for 'Umrah. He had a cloak on him and his beard and head had been dyed.

1109. Name of a place between Merca and al-Ṭā'if.

1110. Literally, smeared with *ḥalūq*. This is a perfume composed of saffron and other elements, yellow and red being the predominant colours.

1111. This shows that use of perfume and wearing sewn clothes is not allowed in *iḥrām* meant for *Hajj* or 'Umrah.

1112. The Prophet (may peace be upon him) ordered him to wash twice or thrice to remove the effect of perfume. On the basis of this tradition Mālik and Muḥammad b. al-Ḥasan argue that it is not permissible to leave the smell of perfume after wearing *iḥrām*. The majority of the jurists contend that this incident happened at 'Umrah from al-Ji'rānah in 8 A.H. But 'Ā'ishah used perfume in *iḥrām* of the Prophet (may peace be upon him) when he wore it for *Hajj* in 10 A.H. So his later action should be followed.

If a pilgrim uses perfume after wearing *iḥrām* inadvertently, he may wash it. He is not required to sacrifice an animal for this omission. Similarly, if one wears a sewn clothe while one is wearing *iḥrām*, that clothe should be removed without offering any sacrifice. Mālik holds that if one wears it for a long time, one should sacrifice. According to Abū Ḥanīfah and Aḥmad, in such a case one should sacrifice unconditionally ('*Awn al-Mā'būd*, II, 101).

## Chapter 599

WHICH CLOTHING SHOULD A MAN WHO INTENDS TO WEAR  
*IḤRĀM* PUT ON ?

(1819) 'Abd Allah b. 'Umar said : A man asked the Apostle of Allah (may peace be upon him) : What clothing one should put on if one intend to put on *iḥrām* ? He said : He should not wear shirts, turbans, trousers, garments with head coverings, and a clothing which has any dye of *waras* or saffron ; one should not put on shoes, unless one cannot get sandals. If one does not get sandals, one should wear the shoes, in which case one must cut them to come below the ankles.<sup>1113</sup>

(1820) The aforesaid tradition has also been transmitted by Ibn 'Umar from the Prophet (may peace be upon him) to the same effect.

(1821) This tradition has also been transmitted through a different chain of narrators by Ibn 'Umar to the same effect. This version adds : "A woman in the sacred state (while wearing *iḥrām*) should not be veiled, or wear gloves."<sup>1114</sup>

Abū Dāwūd said : This tradition has been transmitted by Ḥātim b. Ismā'il and Yaḥyā b. Ayyūb from Mūsā b. 'Uqbah, from Nāfi' as reported by al-Laith. This has also been narrated by Mūsā b. Ṭāriq from Mūsā b. 'Uqbah as a statement of Ibn 'Umar (not of the Prophet). Similarly, this tradition has also been transmitted by 'Ubaid Allah b. 'Umar, Mālik and Ayyūb as a statement of Ibn 'Umar (not of the Prophet). Ibrāhīm b. Sa'īd al-Madīnī narrated this tradition from Nāfi' on the authority of Ibn 'Umar from the Prophet (may peace be upon him) : A woman in the sacred state (wearing *iḥrām*) must not be veiled, or wear gloves.

Abū Dāwūd said : Ibrāhīm b. Sa'īd al-Madīnī is a traditionist of Medina. Not many traditions have been narrated by him.

(1822) Ibn 'Umar reported the Prophet (may peace be upon him) as saying : A woman in the sacred state (wearing *iḥrām*) must not be veiled, or wear gloves.

(1823) 'Abd Allah b. 'Umar said that he heard the Apostle of Allah (may peace be upon him) prohibiting women in the sacred state (wearing *iḥrām*) to wear gloves, veil (their faces), and to wear clothes with dye of *waras*<sup>1115</sup> or saffron on them, but afterwards they can wear any kind of clothing they like, dyed yellow, or silk, or

1113. According to Aḥmad b. Ḥanbal, it is not necessary to cut the shoes as a tradition from Ibn 'Abbās indicates. But Abū Ḥanīfah, Mālik and al-Shāfi'i maintain that if a man cannot get sandals, he should wear the shoes by cutting them as required by the Prophet (may peace be upon him). The dye with *waras* and saffron was prohibited because both produce intense perfume ('*Awn al-Ma'būd*. II, 102).

1114. A woman in the state of *iḥrām* can wear her sewn clothes and cover her head. But she must not veil her face, and wear gloves in her hands.

1115. A plant of a yellow colour in the Yemen. The word is also used for colouring matter.



jewellery, or trousers, or shirts, or shoes.

Abū Dāwūd said : 'Abdah and Muḥammad b. Isḥāq narrated this tradition from Muḥammad b. Isḥāq up to the words : "And to wear clothes with dye of *waras* or saffron on them. They did not mention the words after them.

(1824) Nāfi' said : Ibn 'Umar felt cold and said : Throw a garment over me, Nāfi'. I threw a hooded cloak over him. Thereupon he said : Are you throwing this over me when the Apostle of Allah (may peace be upon him) has forbidden those who are in the sacred state to wear it ?

(1825) Ibn 'Abbās said : I heard the Apostle of Allah (may peace be upon him) say : When one who is wearing *iḥrām* cannot get a lower garment (loin-cloth) he may wear trousers, and when he cannot get sandals he may wear shoes.<sup>1116</sup> Abū Dāwūd said : This is the tradition narrated by the narrators of Mecca. Its narrator from Baṣrah is Jābir b. Zaid. He mentioned only trousers, and omitted the mention of cutting of the shoes.<sup>1117</sup>

(1826) 'Ā'ishah said : We were proceeding to Mecca along with the Prophet (may peace be upon him). We pasted on our foreheads the perfume known as *sakk* at the time of wearing *iḥrām*. When one of us perspired, it (the perfume) came down on her face. The Prophet (may peace be upon him) saw, but did not forbid it.<sup>1118</sup>

(1827) Sālim b. 'Abd Allah said : 'Abd Allah b. 'Umar used to do so, that is to say, he would cut the shoes of a woman who put on *iḥrām* ; then Ṣafīyyah, daughter of Abū 'Ubaid, reported to him that 'Ā'ishah (may Allah be pleased with her) narrated to her that the Apostle of Allah (may peace be upon him) gave licence to women in respect of the shoes (i.e. women are not required to cut the shoes). He, therefore, abandoned it.<sup>1119</sup>

## Chapter 600

### A PILGRIM IN THE STATE OF *IḤRĀM* MAY CARRY ARMS

(1828) Al-Barā' (b. 'Āzib) said : When the Apostle of Allah (may peace be upon him) concluded the treaty with the people of al-Ḥudaibīyyah, they stipulated

1116. In the absence of sandals and loin-cloth one can wear shoes and trousers without cutting or tearing according to Aḥmad b. Ḥanbal. According to al-Shāfi'ī and others, one should cut the shoes and tear the trousers. Mālik and Abū Ḥanīfah do not allow to wear shoes or trousers in the state of *iḥrām*. This tradition might not have reached them (*ʿAwn al-Ma'būd*, II, 103).

1117. It should be noted that Abū Dāwūd narrated this tradition from Sulaimān b. Ḥarb who belonged to Mecca. From al-Baṣrah only Jābir b. Zaid transmitted it. He did not mention cutting the shoes. Hence Aḥmad b. Ḥanbal maintains that cutting the shoes is not necessary.

1118. The perfume was used before wearing *iḥrām*.

1119. This shows that a woman is not required to cut her shoes during *iḥrām* for it is necessary only for men to uncover the ankles and not for women.

that they (the Muslims) would not enter (Mecca) except with the bag of armament (*julbān al-silāḥ*). I asked : What is *julbān al-silāḥ* ? He replied : The bag with its contents.<sup>1120</sup>

### Chapter 601

#### CAN A PILGRIM WOMAN IN THE STATE OF *IḤRām* VEIL HERSELF ?

(1829) 'Ā'ishah said : Riders would pass us when we accompanied the Apostle of Allah (may peace be upon him) while we were in the sacred state (wearing *iḥrām*). When they came by us, one of us would let down her outer garment from her head over her face, and when they had passed on, we would uncover our faces.<sup>1121</sup>

### Chapter 602

#### ON A PILGRIM WHO IS PROVIDED SHELTER FROM THE HEAT

(1830) Umm al-Ḥuṣayn said : We performed the Farewell Pilgrimage along with the Prophet (may peace be upon him). I saw Usāmah and Bilāl, one of them holding the halter of the she-camel of the Prophet (may peace be upon him), while the other raising his garment and sheltering him from the heat till he had thrown pebbles at the *jamrah* of the 'Aqabah.<sup>1122</sup>

### Chapter 603

#### ON A PILGRIM WHO HAS HIMSELF CUPPED

(1831) Ibn 'Abbās said : The Prophet (may peace be upon him) had himself cupped when he was in the sacred state (wearing *iḥrām*).<sup>1123</sup>

1120. The infidels of Mecca stipulated that the Muslims may enter Mecca with their armaments covered in their bags.

According to al-Shāfi'i and Mālik, a pilgrim in the sacred state can carry arms with him.

1121. A woman can veil her face when there is a need for it. The scholars suggest that the veil should hang from the head separating itself from the face. But this view does not literally agree with this tradition, for the women who veiled their faces could not keep them separate. The veil must have touched the face (*'Aṣṣ al-Ma'būd*, II, 104).

1122. This shows it is permissible for a pilgrim in the sacred state to take shelter from heat. This is the view of the majority of the scholars. But Mālik and Aḥmad maintain that this is not permissible. Their view contradicts this tradition. They, however, allow to take shelter beneath the roof or in a tent. It should be noted that the traditions cited by Mālik and Aḥmad in support of their view are weak (*'Aṣṣ al-Ma'būd*, II, 105).

1123. This tradition indicates that it is permissible for a pilgrim to have himself cupped in the sacred state. Abū Ḥanīfah, al-Shāfi'i, Aḥmad, Sufyān, and Ishāq allow a pilgrim to get himself

(1832) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) had himself cupped in his head when he was in the sacred state (wearing *iḥrām* due to a disease from which he was suffering.<sup>1124</sup>

(1833) Anas said : The Apostle of Allah (may peace be upon him) had himself cupped on the surface of his foot because of a pain in it while he was in the sacred state (wearing *iḥrām*).

### Chapter 604

#### ON THE APPLYING OF ALOES TO THE EYES BY A PILGRIM WHO IS IN THE SACRED STATE

(1834) Nubaih b. Wahb said : 'Umar b. 'Ubaid Allah b. Ma'mar had a complaint in his eyes. He sent (someone) to Abān b. 'Uthmān—the narrator Sufyān said that he was the chief of pilgrims during the season of *Hajj*—asking him what he should do with them. He said : Apply aloes to them, for I heard 'Uthmān narrating this on the authority of the Apostle of Allah (may peace be upon him).<sup>1125</sup>

(1835) The aforesaid tradition has also been transmitted by Nubaih b. Wahb through a different chain of narrators.

### Chapter 605

#### ON TAKING A BATH BY A PILGRIM IN THE SACRED STATE

(1836) 'Abd Allah b. Ḥunain said : 'Abd Allah b. 'Abbās and Miswar b. Makh-ramah differed amongst themselves (on the question of washing the head in the sacred state) at al-Abwā'.<sup>1126</sup> Ibn 'Abbās said : A pilgrim in the sacred state (while wearing

cupped. Mālik allows in case it is necessary to do so. The reason for disapproval of cupping is that while cutting the vein the hair is also cut which is prohibited in the sacred state. If the hair is not cut, there is no harm in doing so ('*Awān al-Ma'būd*, II, 105).

1124. Al-Nawawī says that the Prophet (may peace be upon him) had himself cupped in his head due to a certain disease. Therefore it is allowed to have oneself cupped if it is necessary to do. If the hair is cut, one should give ransom. In case the hair is not cut, no ransom should be given. Ibn 'Umar and Mālik took it as disapproved, and allowed it in case of necessity.

This also shows that shaving, putting on sewn clothes, and killing the game are allowed in the case of necessity, but one should pay ransom.

1125. The Prophet (may peace be upon him) allowed the Muslims to apply aloes during *Hajj* as it does not contain any perfume. Scholars like Abū Ḥanīfah, Sufyān, Ishāq and Aḥmad have permitted Muslims to apply any kind of *kuḥl* which is free from perfume.

1126. Name of a place near Mecca.

*iḥrām*) can wash his head. Al-Miswar said : A pilgrim in the sacred state (wearing *iḥrām*) cannot wash his head. 'Abd Allah b. 'Abbās then sent him ('Abd Allah b. Ḥunain) to Abū Ayyūb al-Anṣārī. He found him taking a bath between two woods erected at the edge of the well and he was hiding himself with a cloth (curtain). He (the narrator) said : I saluted him. He asked : Who is this ? I said : I am 'Abd Allah b. Ḥunain. 'Abd Allah b. 'Abbās has sent me to you asking you how the Apostle of Allah (may peace be upon him) used to wash his head while he was wearing *iḥrām*. Abū Ayyūb then put his hand on the cloth and removed it till his head appeared to me. He then said to a person who was pouring water on him : Pour water. He poured water on his head and Abū Ayyūb moved his head with his hands. He carried his hands forward and backward.

He then said : I saw him doing similarly.<sup>1127</sup>

### Chapter 606

#### ON MARRYING BY A PILGRIM IN THE SACRED STATE

(1837) Nubaih b. Wahb, brother of Banū 'Abd al-Dār, said : 'Umar b. 'Ubaid Allah sent someone to Abān b. 'Uthmān b. 'Affān, asking him (to participate in the marriage ceremony). Abān in those days was the chief of pilgrims, and both were in the sacred state (wearing *iḥrām*). I want to give the daughter of Shaibah b. Jubair to Ṭalḥah b. 'Umar in marriage. I wish that you may attend it. Abān refused and said : I heard my father 'Uthman b. 'Affān narrating a tradition from the Apostle of Allah (may peace be upon him) as saying : A pilgrim may not marry and give someone in marriage in the sacred state (while wearing *iḥrām*).<sup>1128</sup>

(1838) The aforesaid tradition has also been transmitted by Abān b. 'Uthmān on the authority of 'Uthmān from the Apostle of Allah (may peace be upon him) in a similar manner. This version adds : "And he should not make a betrothal."

(1839) Yazīd b. al-Aṣamm, Maimūnah's nephew, said on Maimūnah's authority : The Apostle of Allah (may peace be upon him) married me when we were not in the sacred state at Sarīf.<sup>1129</sup>

1127. Al-Shāfi'ī and the majority of scholars allow taking a bath in the sacred state (while wearing *iḥrām*). Mālik does not allow ('*Awn al-Ma'būd*, II, 106).

1128. Following this tradition Mālik and al-Shāfi'ī do not allow a pilgrim to marry himself or to give someone in marriage while wearing *iḥrām*. But Abū Ḥanīfah holds that it is permissible for a pilgrim to marry himself or to give someone in marriage. He argues from the tradition reported by Ibn 'Abbās that the Prophet (may peace be upon him) married Maimūnah in the sacred state ('*Awn al-Ma'būd*, II, 106-7).

1129. Name of a place near Mecca at a distance of about six miles.

(1840) Ibn 'Abbās said : The Prophet (may peace be upon him) married Maimūnah while he was in the sacred state (wearing *iḥrām*).<sup>1130</sup>

(1841) Sa'id b. al-Musayyib said : There is a misunderstanding on the part of Ibn 'Abbās about the marriage (of the Prophet) with Maimūnah while he was in the sacred state.

### Chapter 607

#### WHICH OF THE CREATURES CAN BE KILLED BY A PILGRIM IN THE SACRED STATE

(1842) Ibn 'Umar said : The Prophet (may peace be upon him) was asked as to which of the creatures could be killed by a pilgrim in the sacred state. He said : There are five creatures which it is not a sin for anyone to kill,<sup>1131</sup> outside or inside the sacred area : the scorpion, the crow,<sup>1132</sup> the rat, the kite and the biting dog.<sup>1133</sup>

(1843) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : There are five (creatures) the killing of which is lawful in the sacred territory : the snake, the scorpion, the kite, the rat and the biting dog.

(1844) Abū Sa'id al-Khudrī said : The Prophet (may peace be upon him) was asked which of the creatures a pilgrim in sacred state could kill. He replied : The snake, the scorpion, the rat ; he should drive away the pied crow, but should not kill it ; the biting dog, the kite, and any wild animal which attacks (man).<sup>1134</sup>

1130. This tradition is followed by Ibrāhīm al-Nakha'ī, al-Thawrī, 'Āṭā' b. Abī Rabāḥ, Hammād b. Abī Sulaimān, Masrūq, 'Ikrimah and Abū Ḥanīfah. They hold that a pilgrim in the sacred state may marry but he cannot cohabit. He may do so after taking off *iḥrām*. This is the opinion of Ibn 'Abbās and Ibn Mas'ūd. But Sa'id b. al-Musayyib, Sālim, al-Qāsim, Sulaimān b. Yasār, al-Laith, al-Awzā'ī, Mālik, al-Shāhī, Aḥmad and Ishāq maintain that it is not permissible for a pilgrim to marry himself or give someone in marriage in the sacred state. If he does so, his marriage will be void. This is the opinion of 'Umar and 'Alī. It should be noted that the tradition of Ibn 'Abbās contradicts the tradition narrated by Maimūnah herself, and by Abū Rāfi' who was an intermediary between her and the Prophet (may peace be upon him). There may be some misunderstanding on the part of Ibn 'Abbās (*'Awn al-Ma'būd*, II, 107).

1131. This shows that a pilgrim can kill these creatures within or without the sacred territory.

1132. It is agreed upon by scholars that the crow of small size which eats grain and is called pied crow should not be killed. This kind of crow is excluded from the species allowed to be killed.

1133. This has been interpreted in *al-Muwaffā'* as all those animals which bite, frighten and terrorise the people, such as lion, tiger, leopard and wolf. This is the opinion of the majority of jurists. According to Abū Ḥanīfah, this applies only to such a dog or at most includes wolf (*'Awn al-Ma'būd*, II, 108).

1134. If a pilgrim kills the creatures mentioned in these traditions, he is not liable to give anything as atonement. This is the view generally agreed upon by jurists.



## Chapter 608

ON EATING THE FLESH OF GAME BY A PILGRIM WHO  
IS WEARING *Iḥrām*

(1845) 'Abd Allah b. al-Ḥārith reported on the authority of his father al-Ḥārith : (My father) al-Ḥārith was the governor of al-Ṭā'if under the caliph 'Uthmān. He prepared food for 'Uthmān which contained birds and the flesh of wild ass. He sent it to 'Ali (may Allah be pleased with him) When the Messenger came to him he was beating leaves for camels and shaking them off with his hand. He said to him : Eat it. He replied : Give it to the people who are not in sacred state ; we are wearing *iḥrām*. I adjure the people of Ashja' who are present here. Do you know that a man presented a wild ass to the Apostle of Allah (may peace be upon him) while he was in *iḥrām*? But he refused to eat from it. They said : Yes.<sup>1135</sup>

(1846) Ibn 'Abbās said : Zaid b. Arqam, do you know that a limb of a game was presented to the Apostle of Allah (may peace be upon him), but he did not accept it? He said : We are wearing *iḥrām*. He replied : Yes.<sup>1136</sup>

(1847) Jābir b. 'Abd Allah said : I heard the Apostle of Allah (may peace be upon him) say : The game of the land is lawful for you (when you are wearing *iḥrām*) as long as you do not hunt it or have it hunted on your behalf.

Abū Dāwūd said : When two traditions from the Prophet (may peace be upon him)

1135. This shows that it is not permissible for a pilgrim who is wearing *iḥrām* to eat the flesh of game. If he himself hunts the game, or slaughters it, all scholars are agreed upon the prohibition of its eating by him. This is forbidden on the basis of the Qur'ānic verse, v. 96. If a person who is not wearing *iḥrām* hunts the game or slaughters it and the pilgrim in the sacred state helps him, or indicates it, or makes a sign to it, he is not allowed to eat the flesh. It is also unlawful for him to eat its flesh if the game is hunted for him. This is the view held by Mālik and al-Shāfi'ī. According to Abū Ḥanīfah, it is unlawful for a pilgrim to eat the flesh of the game if he commands a person to hunt for him or indicates it. If he does not do so, or does not help in hunting, he is allowed to eat the flesh. According to 'Ali, Ibn 'Umar, 'Ā'ishah and Ibn 'Abbās, a pilgrim in the sacred state is not allowed to eat the flesh of game unconditionally. If a pilgrim in the sacred state hunts the game and eats out of it, he should make atonement only for killing and not for eating according to Mālik and al-Shāfi'ī. But in the opinion of 'Aṭā' and Abū Ḥanīfah, he should make atonement for both of them (*al-Mughni*, III, 311-14).

1136. Those who prohibit the eating of flesh of game by a pilgrim in the sacred state argue from this and similar other traditions. In fact, in this connection, there are two sets of traditions. One permits the eating and the other prohibits. The traditions which allow the eating of flesh mean that if a person who is not wearing *iḥrām* hunts a game for him and then presents it to the pilgrim, he is allowed to eat it. The traditions which forbid the eating mean that if a person who is not wearing *iḥrām* hunts a game for the pilgrim who is in the sacred state, he is not allowed to eat it (*Awn al-Ma'būd*, II, 109).

conflict, one should see which of them was followed by his Companions.<sup>1137</sup>

(1848) Abū Qatādah said that he accompanied the Apostle of Allah (may peace be upon him), and he stayed behind on the way to Mecca with some of his Companions who were wearing *iḥrām*, although he was not. When he saw a wild ass, he mounted his horse, and asked them to hand him his whip, but they refused. He then asked them to hand him his lance. When they refused, he took it, chased the wild ass and killed it. Some of the Companions of the Apostle of Allah (may peace be upon him) ate it, and some refused (to eat). When they met the Apostle of Allah (may peace be upon him), they asked him about it. He said : That was a food that Allah provided you for eating.<sup>1138</sup>

### Chapter 609

#### ON KILLING LOCUSTS BY A PILGRIM WHO IS WEARING *IḤRĀM*

(1849) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Locusts are counted along with what is caught in the sea (i.e. the game of the sea).<sup>1139</sup>

(1850) Abū Hurairah said : We found a swarm of locusts. A man who was wearing *iḥrām* began to strike it with his whip. He was told that his action was not valid. The fact was mentioned to the Prophet (may peace be upon him). He said : That is counted along with the game of the sea.

I heard Abū Dāwūd say : The narrator Abū al-Mūhzim is weak. Both these traditions are based on misunderstanding.

(1851) Ka'b said : Locusts are counted along with the game of the sea.<sup>1140</sup>

### Chapter 610

#### ON PAYMENT OF A RANSOM

(1852) Ka'b b. 'Ujrah said that the Apostle of Allah (may peace be upon him) came upon him (during their stay) at al-Ḥudaibīyah. He asked : Do the insects of

1137. This shows that eating the flesh of the game of the sea is lawful for a pilgrim. Further, this tradition also indicates that there is a difference between the game hunted for a pilgrim or on his behalf, and the one hunted for others and not for him.

1138. This tradition shows that it is permissible for a pilgrim in the sacred state to eat the flesh of game in which he did not either participate himself or help the person who hunted it.

1139. Meaning that it is permissible for a pilgrim to eat or kill locusts for they are reckoned among the game of the sea. As game of the sea is lawful for a pilgrim, likewise the killing of locust is permissible.

1140. Abū Bakr al-Mu'āfirī said : No sound tradition is available on this subject ('*Awā al-Ma būd*, II, 110).

your head (lice) annoy you ? He said : Yes. The Prophet (may peace be upon him) said : Shave your head, then sacrifice a sheep as offering, or fast three days, or give three ṣā's of dates to six poor people.<sup>1141</sup>

(1853) Ka'b b. 'Ujrah said : The Apostle of Allah (may peace be upon him) said to him : If you like, sacrifice an animal, or, if you like, fast three days, or, if you like give three ṣā's of dates to six poor people.<sup>1142</sup>

(1854) Ka'b b. 'Ujrah said : The Apostle of Allah (may peace be upon him) came upon him (during their stay) at al-Ḥudaiblyyah. He then narrated the rest of the tradition. This version adds : "He asked : Do you have a sacrificial animal ? He replied : No. He then said : Fast three days or give three ṣā's of dates to six poor people, giving one ṣā' to every two persons."

(1855) A man from the *Anṣār* said on the authority of Ka'b b. 'Ujrah that he was feeling pain in his head (due to lice) ; so he shaved his head. The Prophet (may peace be upon him) ordered him to sacrifice a cow as offering.<sup>1143</sup>

(1856) Ka'b b. 'Ujrah said : I had lice in my head when I accompanied the Apostle of Allah (may peace be upon him) in the year of al-Ḥudaiblyyah, so much so that I feared about my eyesight. So Allah, the Exalted, revealed these verses about me : "And whoever among you is sick, or hath an ailment of the head."<sup>1144</sup> The Apostle of Allah (may peace be upon him) called me and said : Shave your head, and fast three days, or give a faraq<sup>1145</sup> of raisins to six poor men, or sacrifice a goat. So I shaved my head and sacrificed.

## Chapter 611

### BEING DETAINED AND MISSING THE ḤAJJ

(1857) Al-Ḥajjāj b. 'Amr al-Anṣārī reported the Apostle of Allah (may peace be upon him) as saying : If anyone breaks (a bone or leg) or becomes lame, he has come out of the sacred state, and must perform *Ḥajj* the following year. 'Ikrimah

1141. Al-Nawawī said : If a pilgrim in the sacred state is annoyed and feels pain by lice or some disease in his head he may shave his head, and pay a ransom. The Qur'ānic verse goes : "And whoever among you is sick, or hath an ailment of the head must pay a ransom of fasting or almsgiving or offering" (ii. 196). One has the option of choosing any one of these alternatives (*ʿAwn al-Ma'būd*, II, 110).

1142. This shows that there is an option for a pilgrim in choosing any of the forms of ransom.

1143. As he had no animal, the Prophet (may peace be upon him) allowed him to pay ransom or to fast three days.

1144. Qur'ān, ii. 196.

1145. About twelve or thirteen seers. A faraq contains three ṣā's and half ṣā' should be given to each indigent.

said : I asked Ibn 'Abbās and Abū Hurairah about this. They replied : He spoke the truth.<sup>1146</sup>

(1858) Al-Ḥajjāj b. 'Amr reported the Prophet (may peace be upon him) as saying : If anyone breaks (a leg) or becomes lame or falls ill. He then narrated the tradition to the same effect.

The narrator Salamah b. Shabīb said : Ma'mar narrated (this tradition) to us.

(1859) Maimūn b. Mahrān said : I came out to perform 'Umrah in the year when the people of Syria besieged Ibn al-Zubair at Mecca. Some people of my tribe sent sacrificial animals with me as offering. When we reached the people of Syria, they stopped us from entering the sacred territory. I, therefore, sacrificed the animals at the same spot. I then took off *iḥrām* and returned. Next year I came out to make an atonement for my 'Umrah. I came to Ibn 'Abbās and asked him (about it). He said : Bring a new sacrificial animal, for the Apostle of Allah (may peace be upon him) ordered his Companions to bring fresh sacrificial animal for 'Umrah of atonement in lieu of the animals they had sacrificed in the year of al-Ḥudaibīyyah.<sup>1147</sup>

### Chapter 612

#### ENTERING MECCA

(1860) Nāfi' said : It was Ibn 'Umar's habit that whenever he came to Mecca he spent the night at Dhū Ṭuwā.<sup>1148</sup> In the morning he would take a bath and enter Mecca in the daytime. He used to say that the Prophet (may peace be upon him) had done so.<sup>1149</sup>

1146. This shows that if a pilgrim is detained from *Ḥajj* due to certain valid reason, he may take off *iḥrām* and perform *Ḥajj* the following year. This is the view held by Abū Ḥanīfah, Sufyān al-Thawrī, 'Aṭā', 'Urwah and al-Nakha'ī. According to them, one should perform both *Ḥajj* and 'Umrah. Mālik, al-Shāfi'ī and Aḥmad maintain that one should postpone *Ḥajj* in case one is detained by the enemy. In other cases one should wait till the removal of the impediment. But only *Ḥajj* is due on him and not 'Umrah. This is in case *Ḥajj* is binding on someone. If it is voluntary, no atonement is necessary ('*Awn al-Ma'būd*, II, 111).

1147. According to Abū Ḥanīfah, if a man is detained from *Ḥajj* he should send the sacrificial animal to the sacred territory at Mecca for slaughter. But al-Shāfi'ī holds that he can sacrifice the animals on the spot where he was detained.

The Prophet (may peace be upon him) was detained at al-Ḥudaibīyyah from performing 'Umrah in 6 A.H. by the unbelievers of Mecca. The following year he performed 'Umrah as an atonement. When he was detained at al-Ḥudaibīyyah, he sacrificed the animals there.

1148. A place near Mecca.

1149. This shows that one should take a bath before entering Mecca and enter it in the daytime. One should pass the night at Dhū Ṭuwā if it lies on one's way. But all these acts are recommended and not obligatory. It is also reported that the Prophet (may peace be upon him) entered Mecca at night on the occasion when he performed 'Umrah from al-Ji'rānah.

(1861) Ibn 'Umar said : The Prophet (may peace be upon him) used to enter Mecca from the upper hillock.<sup>1150</sup> The version of Yaḥyā goes : The Prophet (may peace be upon him) used to enter Mecca from Kudā', from the hillock of al-Baṭḥā'. He would come out from the lower hillock.<sup>1151</sup>

Al-Barmakī added : "that is, the two hillocks of Mecca"

The version of Musaddad is more complete.

(1862) Ibn 'Umar said : The Apostle (may peace be upon him) used to come out from (Medina) by the way of al-Shajarah<sup>1152</sup> and enter (Mecca) by the way of al-Mu'arras.<sup>1153</sup>

(1863) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) entered Mecca from the side of Kudā',<sup>1154</sup> the upper end of Mecca, in the year of the Conquest (of Mecca) and he entered from the side of Kidā'<sup>1155</sup> when he performed 'Umrah. 'Urwah used to enter (Mecca) from both sides, but often he entered from the side of Kudā', as it was nearer to his house.

(1864) 'Ā'ishah said : When the Prophet (may peace be upon him) entered Mecca, he entered from the side of the upper end, and he came out from the side of the lower end.

### Chapter 613

#### RAISING BOTH HANDS WHEN A PILGRIM LOOKS AT THE HOUSE (KA'BAH)

(1865) Jābir b. 'Abd Allah was asked about a man who looks at the House (the Ka'bah) and raises his hands (for prayer). He replied : I did not find anyone doing this except the Jews. We performed Ḥajj along with the Apostle of Allah (may peace

1150. This is the upper end of Mecca. Dhū Ṭuwā and al-Mu'allā, the graveyard of the people of Mecca, lie on this side. The graveyard is also known as Kudā'.

1151. This is the lower end of Mecca, known as Kudā'.

1152. Al-Shajarah means tree. This tree was at Dhū al-Hulaifah, a place at a distance of six miles from Medina. The Prophet (may peace be upon him) used to stay and pass the night at Dhū al-Hulaifah when he proceeded from Medina to Mecca, and would stay at this place when he returned from Mecca.

1153. Al-Mu'arras is a well-known place at a distance of six miles from Medina on the way to Mecca. Al-Mu'arras is nearer to Medina than al-Shajarah. The Prophet (may peace be upon him) used to stay at this place when he returned from Mecca.

1154. Kudā' is the name of a hillock at the highland of Mecca. This was near the graveyard of Mecca.

1155. Kidā' is the name of a hillock at the lowland of Mecca.



be upon him), but he did not do so.<sup>1156</sup>

(1866) Abū Hurairah said : When the Prophet (may peace be upon him) entered Mecca, he circumambulated the House (the Ka'bah), and offered two *rak'ahs* of prayer behind the station.<sup>1157</sup> That is, he did so on the day of the Conquest (of Mecca).

(1867) Abū Hurairah said : The Apostle of Allah (may peace be upon him) came and entered Mecca, and after the Apostle of Allah (may peace be upon him) had gone forward to the Stone, and touched it, he went round the House (the Ka'bah). He then went to al-Ṣafā' and mounted it so that he could look at the House. Then he raised his hands,<sup>1158</sup> began to make mention of Allah as much as he wished and make supplication. The narrator said : The *Angels* were beneath him. The narrator Hāshim said : He prayed and praised Allah and asked Him for what he wished to ask.

### Chapter 614

#### ON KISSING THE STONE

(1868) 'Ābis b. Rabī'ah said on the authority of 'Umar : He ('Umar) came to the (Black) Stone and said : I know for sure that you are a stone which can neither benefit nor injure ; and had I not seen the Apostle of Allah (may peace be upon him) kissing you, I would not have kissed you.<sup>1159</sup>

### Chapter 615

#### ON TOUCHING THE CORNERS

(1869) Ibn 'Umar said : I have not seen the Apostle of Allah (may peace be upon him) touching anything in the House (the Ka'bah) but the two Yamān!

1156. This tradition contradicts a number of sound traditions which indicate the raising of hands at the time of sighting the Ka'bah. Al-Khaṭṭābī said that Sufyān al-Thawrī, Ibn al-Mubārak, Aḥmad and Ishāq have taken the tradition reported by Jābir as weak. The Prophet (may peace be upon him) himself is reported to have raised his hands when he looked at the Ka'bah (*ʿAwn al-Ma'būd*, II, 113).

1157. *Al-Maqām* refers to *Maqām Ibrāhīm*.

1158. This shows that when a pilgrim looks at the Ka'bah, he should raise his hands and pray to Allah.

1159. This shows that the Muslims obey the Prophet (may peace be upon him) unquestioningly. The kissing of the Black Stone is meant for its reverence, and getting blessings from Allah. Some stones have superiority over other ordinary stones as some days, months, and places have superiority and merit over other ordinary days, months and places. A Muslim pays no homage to a stone for its being a stone ; it is the Commandment which he obeys. As the Prophet (may peace be upon him) himself kissed the stone, the Muslims kiss it following his practice.

corners.<sup>1160</sup>

(1870) Ibn 'Umar was informed about the statement of 'Ā'ishah that a part of al-Ḥijr<sup>1161</sup> is included in the magnitude of the Ka'bah. Ibn 'Umar said: By Allah, I think that she must have heard it from the Apostle of Allah (may peace be upon him). I think that the Apostle of Allah (may peace be upon him) had not given up touching both of them but for the reason that they were not on the foundation of the House (the Ka'bah), nor did the people circumambulate (the House) beyond al-Ḥijr for this reason.<sup>1162</sup>

(1871) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) did not give up touching the Yamānī corner and the (Black) Stone in each of his circumambulations. Ibn 'Umar used to do so.<sup>1163</sup>

### Chapter 616

#### THE OBLIGATORY CIRCUMAMBULATION

(1872) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) performed the circumambulation at the Farewell Pilgrimage<sup>1164</sup> on a camel<sup>1165</sup> and touched the corner (Black Stone) with a crooked stick.

(1873) Ṣāfiyyah, daughter of Shaibah, said: When the Apostle of Allah (may peace be upon him) had some rest at Mecca in the year of its Conquest, he performed circumambulation on a camel and touched the corner (Black Stone) with a crooked stick in his hand. She said: I was looking at him.

1160. The two corners are the Black Stone and the Yamānī corner to the south-east. The corner containing the Black Stone can be kissed or touched. But the Yamānī corner should be touched only. Both these corners are held to be on the foundations laid by Abraham. The other two corners are Shāmī and 'Irāqī.

1161. Al-Ḥijr is the name of a circular wall on the western side of the Ka'bah. Its area is thirty-nine sq. yards. It is said that six yards of this place are counted as a part of the Ka'bah undisputedly. The rest of the area is disputed ('*Awn al-Ma'būd*, II, 114).

1162. Ibn 'Umar verified the statement of 'Ā'ishah. He himself knew that the Prophet (may peace be upon him) did not touch the two other corners, but he did not know the reason. When the statement of 'Ā'ishah was reported to him, he knew the reason, i.e. these corners were not included in the foundation of the Ka'bah. The two corners were 'Irāqī and Shāmī.

1163. This shows that it is commendable to touch the Black Stone and the Yamānī corner while going round the Ka'bah.

1164. This refers to the first circumambulation (*tawāf qudūm*) performed by a pilgrim when he visits the Ka'bah. This is commendable (*sunnaḥ*) in the opinion of Abū Ḥanīfah, al-Shāfi'ī, and Aḥmad, but obligatory according to Mālik. Abū Dāwūd himself probably takes it as binding as the chapter-heading indicates ('*Awn al-Ma'būd*, II, 115).

1165. The Prophet (may peace be upon him) performed circumambulation on the camel in order that the people could see him and learn the method of going around the Ka'bah.

(1874) Abū al-Ṭufail reported on the authority of Ibn ‘Abbās who said: I saw the Prophet (may peace be upon him) circumambulating the Ka‘bah on his camel, touching the corner (Black Stone) with a crooked stick, and kissing it (the crooked stick). The narrator Muḥammad b. Rāfi‘ added: He then went to al-Ṣafā and al-Marwah, and ran seven times on his camel.

(1875) Jābir b. ‘Abd Allah said: The Prophet (may peace be upon him) performed the circumambulation of the House (the Ka‘bah) on his camel at the Farewell Pilgrimage, and ran between al-Ṣafā and al-Marwah, so that the people could see him, remain well-informed about him, and ask him (questions about *Hajj*), for the people surrounded him.

(1876) Ibn ‘Abbās said: When the Apostle of Allah (may peace be upon him) came to Mecca, he was ill. So he performed the circumambulation on his camel.<sup>1166</sup> He touched the corner (Black Stone) with a crooked stick as often as he came to it. When he finished the circumambulation, he made his camel kneel down, and offered two *rak‘ahs* of prayer.

(1877) Umm Salamah said: I complained to the Apostle of Allah (may peace be upon him) that I was ill. He said: Perform the circumambulation riding behind the people. She said: I performed the circumambulation and the Apostle of Allah (may peace be upon him) was praying towards the side of the House (the Ka‘bah) and reciting “By al-Ṭūr and a Book inscribed”.<sup>1167</sup>

### Chapter 617

#### TO WEAR THE MANTLE UNDER ONE'S RIGHT ARMPIT WITH THE END OVER ONE'S LEFT SHOULDER (*İḌṬIBĀ'*)

(1878) Ya‘lā said: The Apostle of Allah (may peace be upon him) went round the House (the Ka‘bah) wearing a green Yamanī mantle under his right armpit with the end over his left shoulder.<sup>1168</sup>

(1879) Ibn ‘Abbās said: The Apostle of Allah (may peace be upon him) and his Companions performed ‘*Umrah* from al-Ji‘rānah.<sup>1169</sup> They went quickly round the

1166. This shows that one can perform the circumambulation on a camel or on a similar other mount if one is ill.

1167. Qur‘ān, lii. This shows that it is permissible to perform the circumambulation riding on an animal in case one is ill.

1168. The Arabic word is *idṭibā'*. It means to wear the mantle under the right armpit with the end over the left shoulder in the sacred state (*iḥrām*). To go round the Ka‘bah in such a condition is commendable and not necessary in the opinion of all the jurists except Mālik. This is done in order to display chivalry and vigour of the Muslims.

1169. A place where there was water less than half way from Mecca to al-Ṭā‘if.

House (the Ka'bah) (moving their shoulders) proudly.<sup>1170</sup> They put their upper garments under their armpits and threw the ends over their left shoulders.

### Chapter 618

#### TO WALK PROUDLY WHILE GOING ROUND THE KA'BAH (RAMAL)

(1880) Abū al-Ṭufail said: I said to Ibn 'Abbās: Your people think that the Apostle of Allah (may peace be upon him) walked proudly with swift strides while going round the Ka'bah,<sup>1171</sup> and that it is *sunnah* (practice of the Prophet). He said: They spoke the truth (in part), and told a lie (in part). I asked: What truth did they speak, and what lie did they tell? He said: They spoke the truth that the Apostle of Allah (may peace be upon him) walked proudly while going round the Ka'bah, but they told a lie; this is no *sunnah*.<sup>1172</sup> The Quraish asserted during the days of al-Ḥudaibiyah: Forsake Muḥammad and his Companions till they die the death of a camel which dies of bacteria in its nose. When they concluded a treaty with him agreeing upon the fact that they (the Prophet and his Companions) would come (to Mecca) next year, and stay at Mecca three days, the Apostle of Allah (may peace be upon him) came over there, and the disbelievers also came from the side of Qu'aiqi'ān.<sup>1173</sup> The Apostle of Allah (may peace be upon him) said to the Companions: Walk proudly (moving shoulders) while going round the Ka'bah in first three circuits. (Ibn 'Abbās said:) But this is not a *sunnah*. I said: Your people think that the Apostle of Allah (may peace be upon him) ran between al-Ṣafā' and al-Marwah on a camel, and that it is a *sunnah*. He said: They spoke the truth (in part) and told a lie (in

1170. The Arabic word is *ramal*. It means to go round the Ka'bah in the first three rounds quickly in a proud manner. According to Abū Ḥanīfah, one should move one's shoulders while walking quickly. This sort of walking during the circumambulation in its first three rounds is commendable.

1171. *Ramal* means to walk proudly with swift paces moving the shoulders just like a soldier in battlefield before the enemy. To perform the *ramal* in the first three circuits of a circumambulation is commendable whether meant for 'Umrah or for Ḥajj provided it is followed by running between al-Ṣafā' and al-Marwah. This might be the first circumambulation when a pilgrim starts performing the rites of Ḥajj. If one does not perform the *ramal* in the initial circumambulation (*qutām*), one should do it in the middle one, but not in the last ('Awn al-Ma'būd, II, 117).

1172. This means that it is not a *sunnah* (practice of the Prophet) to be followed universally. Ibn 'Abbās explained why the Prophet (may peace be upon him) performed it. The Companions became weak due to fever in Medina. By his order to walk proudly he intended to exhibit the strength and chivalry of the Companions to the disbelievers. Hence this injunction was conditioned by a specific circumstance. Ibn 'Abbās did not take it as a universal *sunnah* like others.

1173. The name of a mountain at Mecca.

part). I asked: What truth did they speak and what lie did they tell? He said: They spoke the truth that the Apostle of Allah (may peace be upon him) ran between al-Ṣafā' and al-Marwah on a camel. They told a lie that it is a *sunnah*. As the people did not move from around the Apostle of Allah (may peace be upon him) and did not separate themselves from him he did the *sa'ī* on a camel,<sup>1174</sup> so that they might listen to him and see his position, and their hands might not reach him.

(1881) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) came to Mecca while the fever of Yathrib (Medina) had weakened them. Thereupon the disbelievers said: The people whom the fever has weakened and who suffer misery at Medina are coming to you. Allah, the Exalted, informed His Prophet (may peace be upon him) of what they had said. He, therefore, ordered them to perform the *ramal* (walk proudly with swift pace) in the first three circuits and walk ordinarily between the two corners (Yamānī corner and the Black Stone). When they saw them (i.e. the believers) walking proudly, they said: These are the people about whom you mentioned that the fever had weakened them, but they are more vigorous than us.

Ibn 'Abbās said: He did not order them to walk proudly in all the circuits (of the circumambulation) out of mercy upon them.<sup>1175</sup>

(1882) Aslam said: I heard 'Umar b. al-Khaṭṭāb say: What is the need of walking proudly (*ramal*) and moving the shoulders (while going round the Ka'bah)? Allah has now strengthened Islam and obliterated disbelief and the infidels. In spite of that we shall not forsake anything that we used to do during the time of the Apostle of Allah (may peace be upon him).<sup>1176</sup>

(1883) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying: Going round the House (the Ka'bah), running between al-Ṣafā' and lapidation of the pillars are meant for the remembrance of Allah.

(1884) Ibn 'Abbās said: The Prophet (may peace be upon him) wore the mantle under his right armpit with the end over his left shoulder, and touched the corner (Black Stone), then uttered "Allah is most great," and walked proudly in three circuits of circumambulation. When they (the Companions) reached the Yamānī corner, and

1174. This tradition indicates that it is permissible to perform the circumambulation of the Ka'bah and to run between al-Ṣafā' and al-Marwah on a mount if there is a valid reason. In ordinary circumstances it is commendable to perform these rites on foot.

1175. Had they performed the *raml* in all the circuits, it would have been hard for them. *Raml* was meant only to exhibit their sound health and vigour to the disbelievers.

1176. 'Umar knew the reason of performing *raml*, but he did not leave it thinking that there might be some other motive not known to him. Hence he preferred obedience to the Prophet (may peace be upon him). According to a tradition, the Prophet (may peace be upon him) performed *raml* in the Farewell Pilgrimage and Ibn 'Abbās is reported to have performed it along with him. Hence some scholars take it as a *sunnah* to be performed regularly. Majority of the scholars maintain that if one leaves *raml*, no ransom is due on him (*'Awn al-Ma'būd*, II, 118).



disappeared from the eyes of the Quraish, they walked as usual ; When they appeared before them, they walked proudly with rapid strides. Thereupon the Quraish said : They look to be the deer (that are jumping). Ibn 'Abbās said : Hence this became the *sunnah* (model behaviour of the Prophet).<sup>1177</sup>

(1885) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) and his Companions performed 'Umrah from al-Ji'rānah<sup>1178</sup> and walked proudly with rapid strides round the House (the Ka'bah) in three circuits and walked as usual in four circuits.

(1886) Nāfi' said : Ibn 'Umar walked proudly (*ramal*) from the corner (Black Stone) to the corner (Black Stone) and mentioned that the Apostle of Allah (may peace be upon him) had done so.<sup>1179</sup>

### Chapter 619

#### SUPPLICATION WHILE GOING ROUND THE KA'BAH

(1887) 'Abd Allah b. al-Sā'ib said : I heard the Apostle of Allah (may peace be upon him) say between the two corners : O Allah, bring us a blessing in this world and a blessing in the next and guard us from punishment of Hell.<sup>1180</sup>

(1888) Ibn 'Umar said : When the Apostle of Allah (may peace be upon him) observed the circumambulation at Ḥajj and 'Umrah on his arrival, he ran three circuits and walked four, then he made two prostrations.<sup>1181</sup>

1177. This statement of Ibn 'Abbās contradicts his previous statement that *raml* is no *sunnah*. Ibn 'Abbās later on changed his opinion and believed like others that *raml* was an established *sunnah* of the Prophet (may peace be upon him).

1178. A place where there was water less than half way from Mecca to al Ṭā'if.

1179 This shows that one should perform *ramal* completely from the Black Stone to the Black Stone in three circuits. If one leaves *ramal* in the first three rounds, that cannot be atoned for in the next rounds. Further, only men are competent for *ramal* and not women. *Ramal* should be performed in a circumambulation that is followed by running between al-Ṣafā' and al-Marwah.

Al-Nawawī said : *Ramal* should be performed in the whole of the place where circumambulation is performed. This tradition of Ibn 'Umar has also abrogated the preceding tradition of Ibn 'Abbās in which the Prophet (may peace be upon him) ordered the Muslims to walk between the two corners. The reason is that the tradition of Ibn 'Abbās relates to 'Umrah al-Qadā' in 7 H. before the capture of Mecca. In those days the Muslims were weak in physique and *ramal* was designed only for a display of their vigour. He (the Prophet) ordered them to walk between the two corners as the disbelievers could not see them. But in the Farewell Pilgrimage the Prophet (may peace be upon him) performed *ramal* throughout. This was his last action which should be adopted ('Awn al-Ma'būd, II, 118).

recited by the Prophet (may peace be upon him).

1181. Running in this tradition means performing *ramal*. Further, this shows that two *rak'ahs* of prayer are necessary for completion of the circumambulation.

## Chapter 620

TO OBSERVE CIRCUMAMBULATION AFTER  
THE AFTERNOON PRAYER

(1889) Jubair b. Muṭ'im reported the Prophet (may peace be upon him) as saying : Do not prevent anyone from going round this House (the Ka'bah) and from praying any moment he desires by day or by night.<sup>1182</sup>

The narrator Faḍl (b. Ya'qūb) said : The Apostle of Allah (may peace be upon him) said : Banū 'Abd Munāf, do not stop anyone.

## Chapter 621

THE CIRCUMAMBULATION OF A PILGRIM WHO PERFORMS  
THE *QIRĀN*<sup>1183</sup>

(1890) Jābir b. 'Abd Allah said : Neither the Prophet (may peace be upon him) nor his Companions ran between al-Ṣafā' and al-Marwah except once, and that was his first running.<sup>1184</sup>

(1891) 'Ā'ishah said : The Companions of the Apostle of Allah (may peace be upon him) who accompanied him did not go round the Ka'bah till they threw pebbles at the *jamrah* (pillar at Minā).

(1892) 'Aṭā' said : The Prophet (may peace be upon him) said to 'Ā'ishah : Your observance of circumambulation of the Ka'bah and your running between al-Ṣafā' and al-Marwah (only once) are sufficient for your *Hajj* and your '*Umrah*.<sup>1185</sup>

1182. From this tradition al-Shāfi'i argues that one can offer supererogatory prayer at Mecca in the timings these prayers are prohibited outside Mecca. Some scholars maintain that, according to this tradition, it is permissible to offer two *rah'ahs* of prayer after going round the Ka'bah after the afternoon prayer. Abū Ḥanīfah does not allow offering two *rah'ahs* of prayer at the end of circumambulation after the afternoon prayer.

1183. *Qirān* is a kind of *Hajj* in which a pilgrim wears *iḥrām* (pilgrimage garb) with the intention of performing *Hajj* and '*Umrah* and continues wearing *iḥrām* till the completion of both. Such a pilgrim is called *qārin*.

1184. This tradition shows that a *qārin* should perform circumambulation of the Ka'bah and run between al-Ṣafā' and Marwah only once. It is not necessary to perform both these rites once for '*Umrah* and again for *Hajj*. But this is disputed amongst the scholars.

1185. It is disputed amongst scholars whether a *qārin* should perform *ṭawāf* (going round the Ka'bah) and *sa'i* (running between al-Ṣafā' and al-Marwah) once or twice. Ibn 'Umar, Jābir, 'Ā'ishah, Mālik, al-Shāfi'i, Ishāq and Dāwūd maintain that a single *ṭawāf* and *sa'i* are sufficient for him. Abū Ḥanīfah holds that he should perform *ṭawāf* and *sa'i* twice for '*Umrah* and *Hajj* separately. Al-Ṭahāwī has narrated some traditions on the authority of 'Alī and Ibn Mas'ūd from the

Al-Shāfi'i said : The narrator Sufyān has transmitted this tradition from 'Aṭā' on the authority of 'Ā'ishah, and also narrated it on the authority of 'Aṭā' stating that the Prophet (may peace be upon him) said to 'Ā'ishah (may Allah be pleased with her).

## Chapter 622

### AL-MULTAZAM<sup>1186</sup>

(1893) 'Abd al-Raḥman b. Ṣafwān said : When the Apostle of Allah (may peace be upon him) conquered Mecca, I said (to myself) : I shall put on my clothes, and my house lay on the way, I shall watch how the Apostle of Allah (may peace be upon him) behaves. So I went out. I saw that the Prophet (may peace be upon him) and his Companions had come out from the Ka'bah and embraced the House (the Ka'bah) from its entrance (*al-Bāb*) to al-Ḥaṭīm.<sup>1187</sup> They placed their cheeks on the House (the Ka'bah) while the Apostle of Allah (may peace be upon him) was amongst them.

(1894) 'Amr b. Shu'aib reported on the authority of his father : I went round the Ka'bah along with 'Abd Allah (b. 'Amr). When we came behind the Ka'bah I asked : Do you not seek refuge? He uttered the words : I seek refuge in Allah from the Hell-fire. He then went (farther) and touched the Black Stone, and stood between the corner (Black Stone) and the entrance of the Ka'bah. He then placed his breast, his face, his hands and his palms in this manner, and he spread them, and said : I saw the Apostle of Allah (may peace be upon him) doing like this.

(1895) 'Abd Allah b. al-Sā'ib reported on the authority of his father al-Sā'ib that he used to lead Ibn 'Abbās (when he had become blind) and make him stand in the third corner that was adjacent to the corner (Black Stone) near the entrance of the Ka'bah. Ibn 'Abbās used to say : Has it been reported to you that the Apostle of Allah (may peace be upon him) would pray in this place. He would reply : Yes. He then used to stand (there) and pray.

Prophet (may peace be upon him) which support Abū Ḥanīfah's viewpoint. This can be reconciled by saying that the Prophet (may peace be upon him) might have performed *ṭawāf* twice, once at his arrival and again in the last. But he did not run between al-Ṣafā' and al-Marwah twice (*'Awn al Ma'būd*, II, 119-20).

1186. The place between the Black Stone and the entrance of the Ka'bah is known as *al-Multazam*.

1187. Al-Ḥaṭīm is the name of a place between the Black Stone and the entrance of the Ka'bah.

## Chapter 623

## ON AL-ŞAFĀ' AND AL-MARWAH

(1896) 'Urwah b. al-Zubair said: I said to 'Ā'ishah, wife of the Prophet (may peace be upon him), while I was a boy: What do you think about the pronouncement of Allah, the Exalted: "Lo! (the mountains) al-Şafā' and al-Marwah are among the indications of Allah."<sup>1188</sup> I think there is no harm for anyone if he does not run between them. 'Ā'ishah (may Allah be pleased with her) said: Nay, had it been so as you said, it would have been thus: It is no sin for him not to go around them.<sup>1189</sup> This verse was revealed about the *Anşār*; they used to perform *Hajj* for Manāt. Manāt was erected in front of Qudaid;<sup>1190</sup> hence they used to avoid going around al-Şafā' and al-Marwah. When Islam came, they asked the Apostle of Allah (may peace be upon him) about it. Allah, the Exalted, therefore, revealed the verse: "Lo! (the mountains) al-Şafā' and al-Marwah are among the indications of Allah"<sup>1191</sup>

(1897) 'Abd Allah b. Abi Aufā said: The Apostle of Allah (may peace be upon him) performed 'Umrah and went round the House (the Ka'bah) and prayed behind the Station (*Maqām Ibrāhīm*) two *rak'ahs*, and he was accompanied by so many people that he was hidden by them. 'Abd Allah (b. Abi Aufā) was asked: Did the Apostle of Allah (may peace be upon him) enter the Ka'bah? He replied: No.<sup>1192</sup>

(1898) Ismā'il b. Abi Khālid said: I heard 'Abd Allah b. Abi Aufā narrating this tradition. His version added: He then came to al-Şafā' and al-Marwah and ran between them seven times, and then shaved his head.

(1899) Kathīr b. Jamhān said: A man asked 'Abd Allah b. 'Umar between al-Şafā' and al-Marwah: 'Abd al-Raḥmān, I see you walking while the people are running

1188. Qur'ān, ii. 158.

1189. 'Urwah could not understand the meaning of the verse: "Lo! (the mountains) al-Şafā' and al-Marwah are among the indications of Allah. It is, therefore, no sin for him who is on pilgrimage to the House (of Allah) or visiteth it, to go around them" (ii. 158) Hence he argued that running between these two mountains was not necessary. But 'Ā'ishah corrected him and said: Had it been so, the Qur'ān would have used the words "not to go around them," instead of saying "to go around them"

1190. Name of a place between Mecca and Medina.

1191. Obviously the *Anşār* did not run between al-Şafā' and al-Marwah in pre-Islamic days as veneration for Manāt, a well-known idol at Mecca. Hence they were reluctant to go between these hills after Islam, and asked the injunction of Islam about this rite. The verse was revealed stating that these hills were indications of Allah, and there was no harm in going round them.

1192. The Prophet (may peace be upon him) performed 'Umrah in 7 A.H. He did not enter the Ka'bah for it was full of pictures and idols. When Mecca was captured and all these things were removed, he entered the Ka'bah.

(between al-Ṣafā' and al-Marwah)? He replied: If I walk, I saw the Apostle of Allah (may peace be upon him) walking, and if I run, I saw the Apostle of Allah (may peace be upon him) running. I am too old.<sup>1193</sup>

### Chapter 624

#### THE NARRATIVE OF THE ḤAJJ PERFORMED BY THE PROPHET (MAY PEACE BE UPON HIM)

(1900) Ja'far b. Muḥammad reported on the authority of his father: We entered upon Jābir b. 'Abd Allah. When we reached him, he asked about the people (who had come to visit him). When my turn came, I said: I am Muḥammad b. 'Alī b. Ḥusain. He patted my head with his hand, and undid my upper then lower buttons. He then placed his hand between my nipples, and in those days I was a young boy. He then said: Welcome to you, my nephew, ask what you like. I questioned him; he was blind. The time of prayer came, and he stood wrapped in a mantle. Whenever he placed it on his shoulders, its ends fell to him due to its shortness. He led us in prayer while his mantle was placed on a rack by his side. I said: Tell me about the Ḥajj of the Apostle of Allah (may peace be upon him). He signed with his hand and folded his fingers indicating nine. He then said: The Apostle of Allah (may peace be upon him) remained nine years (at Medina) during which he did not perform Ḥajj, then made a public announcement in the tenth year to the effect that the Apostle of Allah (may peace be upon him) was about to (go to) perform Ḥajj. A large number of people came to Medina, everyone desiring to follow him and act like him. The Apostle of Allah (may peace be upon him) went out and we too went out with him till we reached Dhū al-Ḥulaifah. Asmā', daughter of 'Umais, gave birth to Muḥammad b. Abī Bakr. She sent message to the Apostle of Allah (may peace be upon him) asking him: What should I do? He replied: Take a bath, bandage your private parts with a cloth, and put on *ihṛām*. The Apostle of Allah (may peace be upon him) then prayed (in the mosque), and mounted al-Qaswā', and his she-camel stood erect with him on its back. Jābir said: I saw (a large number of) people on mounts and on foot in front of him, a similar number on his right

1193. This shows that it is permissible to walk instead of running between al-Ṣafā' and al-Marwah, particularly for a man who has some valid reason. This is a view held by a group of scholars. But the majority of scholars maintain that running is obligatory. They argue from a tradition of the Prophet (may peace be upon him) transmitted by Aḥmad: Run, for Allah has prescribed it on you; hence run (between them). According to the Ḥanaffs, running is necessary; if one omits it, that can be compensated by sacrificing an animal. Anas and 'Atā' hold that running between al-Ṣafā' and al-Marwah is recommended (*sunnah*), and no offering of sacrifice is necessary if one omits it. But Ibn Ḥajar has reported the view of the majority that it is essential for the validity of Ḥajj. Ḥajj is considered to be incomplete if one omits it ('*Awn al-Ma'bad*. II, 122).



side, and a similar number on his left side, and a similar number behind him. The Apostle of Allah (may peace be upon him) was among us; the Qur'ān was being revealed to him, and he knew its interpretation. Whatever he did, we did it. The Apostle of Allah (may peace be upon him) then raised his voice declaring Allah's unity and saying: *Labbaik* (I am at Thy service), O Allah, *labbaik, labbaik*, Thou hast no partner; *labbaik*, praise and grace are Thine and the dominion; Thou hast no partner. The people too raised their voices in the *talbiyah* which they used to utter. But the Apostle of Allah (may peace be upon him) did not forbid them anything. The Apostle of Allah (may peace be upon him) continued his *talbiyah*. Jābir said: We did not express our intention of performing anything but *Hajj*, being unaware of 'Umrah (at that season), but when we came with him to the House (the Ka'bah), he touched the corner (and made seven circuits), walking quickly with pride in three of them, and walking ordinarily in four. Then going forward to the Station of Abraham, he recited: "And take the Station of Abraham as a place of prayer."<sup>1194</sup> (While praying two *rak'ahs*) he kept the station between him and the House. The Narrator said: My father said that Ibn Nufail and 'Uthmān said: I do not know that he (Jābir) narrated it from anyone except from the Prophet (may peace be upon him). The narrator Sulaimān said: I do not know but that he (Jābir) said: The Apostle of Allah (may peace be upon him) used to recite in the two *rak'ahs*: "Say, He is Allah, Onc,"<sup>1195</sup> and "Say, O infidels."<sup>1196</sup> He then returned to the House (the Ka'bah) and touched the corner, after which he went out by the gate to al-Safā'. When he reached near al-Safā' he recited: "Al-Safā' and al-Marwah are among the indications of Allah,"<sup>1197</sup> and he added: "We begin with what Allah began with." He then began with al-Safā' and, mounting it till he could see the House (the Ka'bah), he declared the greatness of Allah, and proclaimed His Unity. He then said: There is no god but Allah alone, Who has no partner, to Him belongs the dominion, to him praise is due. He gives life and He causes to die, and He is Omnipotent. There is no god but Allah alone, Who alone has fulfilled His promise, helped His servant and routed the confederates. He then made supplication in the course of that, saying such words three times. He then descended and walked towards al-Marwah, and when his feet came down into the bottom of the valley, he ran, and when he began to ascend, he walked till he reached al-Marwah. He did at al-Marwah as he had done at al-Safā', and when he came to al-Marwah for the last time, he said: If I had known before what I have come to know afterwards regarding this matter of mine, I would not have brought sacrificial animals, but made it an 'Umrah, so if any of you has no sacrificial animals, he may take off

1194. Qur'ān, ii. 125.

1196. Qur'ān, cix.

1195. Qur'ān, cxii.

1197. Qur'ān, ii. 158.

*iḥrām*, and treat it as an 'Umrah. All the people then took off *iḥrām* and clipped their hair except the Prophet (may peace be upon him) and those who had brought sacrificial animals. Surāqah (b. Mālik) b. Ju'sham then got up and asked: Apostle of Allah, does this apply to the present year, or does it apply for ever? The Apostle of Allah (may peace be upon him) intertwined his fingers and said: The 'Umrah has become incorporated in the Ḥajj, adding, No, but for ever and for ever. 'All came from the Yemen with the sacrificial animals of the Apostle of Allah (may peace be upon him), and found Fātimah among one of those who had taken off their *iḥrām*; she had put on coloured clothes, and stained her eyes with collyrium. 'All disliked (this action of her) and asked: Who commanded you for this? She said: my father. Jābir said: 'All said at Iraq: I went to the Apostle of Allah (may peace be upon him) to complain against Fātimah for what she had done, and to ask the opinion of the Apostle of Allah (may peace be upon him) about which she mentioned to me. I informed him that I disliked her action and that thereupon she said to me: My father commanded me to do this. He said: She spoke the truth; she spoke the truth. What did you say when you put on *iḥrām* for Ḥajj? I said: O Allah, I put on *iḥrām* for the same purpose for which the Apostle of Allah (may peace be upon him) has put it on. He said: I have sacrificial animals with me; so do not take off *iḥrām*. He (Jābir) said: The total of those sacrificial animals brought by 'All from the Yemen and of those brought by the Prophet (may peace be upon him) from Medina was one hundred. Then all the people except the Prophet (may peace be upon him) and those who had with them sacrificial animals took off *iḥrām* and clipped their hair. When the 8th of Dhū al-Hijjah (*Yaum al-Tarwiyah*) came, they went towards Minā having put on *iḥrām* for Ḥajj, and the Apostle of Allah (may peace be upon him) rode and prayed at Minā the noon, afternoon, sunset, night and dawn prayers. After that he waited a little till the sun rose, and gave orders for a tent of hair to be set up at Namrah. The Apostle of Allah (may peace be upon him) then set out and the Quraish did not doubt that he would halt at al-Mash'ar al-Ḥarām at al-Muzdalifah, as the Quraish used to do in the pre-Islamic period; but he passed on till he came to 'Arafah and found that the tent had been set up at Namrah. There he dismounted, and when the sun had passed the meridian, he ordered al-Qaswā' to be brought, and when it was saddled for him, he went down into the bottom of the valley, and addressed the people, saying: Your lives and your property must be respected by one another like the sacredness of this day of yours in the month of yours in this town of yours. Lo! everything pertaining to the pre-Islamic period has been put under my feet, and claims for blood vengeance belonging to the pre-Islamic period have been abolished. The first of those murdered among us whose blood vengeance I remit is the blood vengeance of ours (according to the version of the narrator 'Uthmān: the blood vengeance of the son of Rabī'ah; and according to the version of the narrator

Sulaimān, the blood vengeance of the son of Rabī'ah b. al-Ḥārith b. 'Abd al-Muṭṭalib). Some (scholars) said: He was suckled among Banū Sa'd (i.e. he was brought up among Banī Sa'd) and then killed by Hudhail.<sup>1198</sup> The usury of the pre-Islamic period is abolished, and the first of usury I abolish is our usury, the usury of 'Abbās b. 'Abd al-Muṭṭalib, for it is all abolished. Fear Allah regarding women, for you have got them under Allah's security, and have the right to intercourse with them by Allah's word. It is a duty from you on them not to allow anyone whom you dislike to lie on your beds, but if they do, beat them, but not severely. You are responsible for providing them with food and clothing in a fitting manner. I have left among you something by which if you hold to it you will never again go astray, that is Allah's Book. You will be asked about me, so what will you say? They replied: We testify that you have conveyed and fulfilled the message and given counsel. Then raising his forefinger towards the sky and pointing it at the people, he said: O Allah! be witness, O Allah! be witness, O Allah! be witness! Bilāl then uttered the call to prayer and the *iqāmah*, and he prayed the noon prayer; he then uttered the *iqāmah*, and he prayed the afternoon prayer,<sup>1199</sup> engaging in no prayer between the two. He then mounted (his she-camel) al-Qaswā' and came to the place of standing, making his she-camel al-Qaswā' turn its back to the rocks and having the path taken by those who went on foot in front of him, and he faced the *qiblah*. He remained standing till sunset when the yellow light had somewhat gone and the disc of the sun had disappeared. He took Usamah up behind him and picked the reins of al-Qaswā' severely so much so that its head was touching the front part of the saddle. Pointing with his right hand he was saying: Calmness, O People! calmness, O people. Whenever he came over a mound (of sand) he let loose its reins a little so that it could ascend. He then came to al-Muzdalifah where he combined the sunset and night prayers, with one *adhān* and two *iqāmahs*.<sup>1200</sup> The narrator 'Uthmān said: He did not offer supererogatory prayers between them. The narrators are then

1198. The name of Ibn Rabī'ah is Iyās. He was a cousin of the Prophet (may peace be upon him) Al-Nawawī said: According to the majority of scholars the full name of Ibn Rabī'ah was Iyās b. Rabī'ah b. Ḥārith b. 'Abd al-Muṭṭalib. Some narrators of the *Ṣaḥīḥ* of Muslim narrated Rabī'ah b. al-Ḥārith and Ibn Rabī'ah. But it is said that this is a misunderstanding. What is correct is Ibn Rabī'ah (*Awn al-Ma'būd*, II, 127).

1199. He combined the noon and afternoon prayers at the time of noon prayer. According to the Ḥanafīs, this combination was due to the *Hajj*; but according to the Shāfi'īs, this combination is due to journey. Those who were residents and those who did not make two days' journey were not required to combine these prayers.

1200. Al-Nawawī said: It is recommended (*sunnah*) that those who proceed from 'Arafāt to al-Muzdalifah should postpone the sunset prayer and combine it with the night prayer at al-Muzdalifah. This is a view agreed upon by the jurists. According to Abū Ḥanīfah, this combination is due to *Hajj*, and, according to al-Shāfi'ī, this is due to journey.

agreed upon the version: He then lay down<sup>1201</sup> till dawn and prayed the dawn prayer when the morning light was clear. The narrator Sulaimān said: with one *adhān* and one *iqāmah*. The narrators are then agreed upon the version: He then mounted al-Qaswā' and came to al-Mash'ar al-Ḥarām<sup>1202</sup> and ascended it. The narrators 'Uthmān and Sulaimān said: He faced the *qiblah*, praised Allah, declared His greatness, His uniqueness. 'Uthmān added in his version: and His unity, and kept standing till the day was very clear. The Apostle of Allah (may peace be upon him) then went quickly before the sun rose, taking al-Faḍl b. 'Abbās behind him. He was a man having beautiful hair, white and handsome colour. When the Apostle of Allah (may peace be upon him) went quickly, the women in the howdas also began to pass him quickly. Al-Faḍl began to look at them. The Apostle of Allah (may peace be upon him) placed his hand on the face of al-Faḍl, but al-Faḍl turned his face towards the other side. The Apostle of Allah (may peace be upon him) also turned away his hand to the other side. Al-Faḍl also turned his face to the other side looking at them, till he came to (the valley of) Muḥassir.<sup>1203</sup> He urged the camel a little and following the middle road which comes out at the greatest *jamrah*,<sup>1204</sup> he came to the *jamrah* which is beside the tree; and he threw seven small pebbles at this (*jamrah*), saying "Allah is most great" each time he threw a pebble like bean seeds. He threw them from the bottom of the valley. The Apostle of Allah (may peace be upon him) then went to the place of sacrifice, and sacrificed sixty-three camels with his own hand. He then commanded 'All who sacrificed the remainder and he shared him and his sacrificial animals. After that he ordered that a piece of flesh from each camel should be put in a pot; and when it was cooked, the two of them ate some of it and drank some of its broth. The narrator Sulaimān said: Then he mounted; afterwards the Apostle of Allah (may peace be upon him) went quickly to the House (the Ka'bah), and prayed the noon prayer in Mecca. He came to Banū 'Abd al-Muṭṭalib who were supplying water at Zamzam and said: Draw water Banū 'Abd al-Muṭṭalib. Were it not that people would take from you the right to draw water, I would draw it along with you. So they handed him a bucket and he drank from it.

(1901) Ja'far b. Muḥammad reported on the authority of his father: The Prophet (may peace be upon him) prayed the noon and the afternoon prayers with one *adhān*

1201. Lying down before the dawn prayer is recommended in the opinion of Abū Ḥanīfah, but necessary according to al-Shāfi'ī. Some scholars hold that it is essential. Mālik maintains that coming over to al-Muzdalifah is necessary, and lying down is recommended.

1202. Al-Mash'ar al-Ḥarām (the sacred site) is the name of a mountain in al-Muzdalifah. Most of the scholars hold that the whole of al-Muzdalifah is al-Mash'ar al-Ḥarām.

1203. Name of a valley between al-Muzdalifah and Minā.

1204. *Jamrah* originally means a pebble. It is applied to the heap of stones or a pillar. There are three pillars in the valley of Minā. One of the rites of *Hajj* is to throw small stones at them.



and two *iqāmahs* at 'Arafah, and he did not offer supererogatory prayers between them. He prayed the sunset and night prayers at al-Muzdalifah with one *adhān* and two *iqāmahs*,<sup>1205</sup> and he did not offer supererogatory prayers between them.

Abū Dāwūd said : This tradition has been narrated by Ḥātim b. Ismā'īl as a part of the lengthy tradition. Muḥammad b. 'Alī al-Ju'fī narrated it from Ja'far from his father, on the authority of Jābir, like the tradition transmitted by Ḥātim b. Ismā'īl. But this version has : He offered the sunset and night prayers with one *adhān* and one *iqāmah*.<sup>1206</sup>

(1902) Jābir said : Then the Prophet (may peace be upon him) said : I sacrificed here and the whole of Minā is the place of sacrifice ;<sup>1207</sup> he stationed at 'Arafah and said : I stationed here, and the whole of 'Arafah is the place of station ;<sup>1208</sup> he stationed at al-Muzdalifah and said : I stationed here and the whole of Muzdalifah is the place of station.<sup>1209</sup>

(1903) The aforesaid tradition has also been narrated by Ḥafṣ b. Ghiyāth from Ja'far with the same chain of narrators. But this version adds : Sacrifice in your dwellings.

(1904) This tradition has also been transmitted by Jābir through a different chain of narrators. He narrated this tradition and added the words : He recited in two *rak'ahs* the *surah* relating to the Unity of Allah,<sup>1210</sup> and "Say, O disbelievers,"<sup>1211</sup> to the Qur'ānic verse : "And take the station of Abraham as a place of prayer."<sup>1212</sup> This version has : 'Alī said in Kūfah. The narrator said : My father said : Jābir did not say these words : "I went to complain (against Fāṭimah). He then narrated the story of Fāṭimah."

## Chapter 625

### THE STATIONING AT 'ARAFAH

(1905) 'Ā'ishah said : Quraish and those who followed their religion used to station

1205. The noon and afternoon prayers should be combined at Minā in the time of the noon prayer uttering *adhān* with the first and *iqāmah* with the both. The sunset and the night prayers should be combined at al-Muzdalifah in the time of the night prayer calling *adhān* with the first and *iqāmah* with both. This question is disputed among the scholars.

1206. This is the view held by Abū Ḥanīfah and Abū Yūsuf. A pilgrim should combine the sunset and night prayers with one *adhān* and one *iqāmah*. The rest of the jurists hold that there should be one *adhān* and two *iqāmahs* (*ʿAwn al-Ma'būd*, II, 131).

1207. This shows that the whole of Minā is a place of sacrifice and one can slaughter the sacrificial animals anywhere in this area. But it is preferable to sacrifice at the place where the Prophet (may peace be upon him) sacrificed near the first *jamrah*.

1208. One can station at any place in 'Arafah for a moment and his *Ḥajj* will be valid.

1209. The whole of Muzdalifah is a place of station and one can stay anywhere in this area.

1210. Qur'ān. cxii.

1211. Qur'ān. cix.

1212. Qur'ān, ii, 175.



at al-Muzdalifah, and they were called al-Ḥums,<sup>1213</sup> and the rest of Arabs used to station at 'Arafah. When Islam came, Allah most high commanded His Prophet (may peace be upon him) to go to 'Arafāt and station there, then go quickly from it.<sup>1214</sup> That is in accordance with the words of Him Who is exalted : Then go quickly from where the people went quickly.

### Chapter 626

#### GOING OUT TOWARDS MINĀ

(1906) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) offered the noon prayer on the 8th of Dhū al-Ḥijjah (*Yaum al-Tarwiyah*) and dawn prayer on the 9th of Dhū al-Ḥijjah (*Yaum al-'Arafah*) in Minā.

(1907) 'Abd al-'Aziz b. Rufai' said : I asked Anas b. Mālik saying : Tell me something you knew about the Apostle of Allah (may peace be upon him) viz. where he offered the noon prayer on *Yaum al-Tarwiyah* (8th of Dhū al-Ḥijjah). He replied : In Minā. I asked : Where did he pray the afternoon prayer on *Yaum al-Nafr* (12th or 13th of Dhū al-Ḥijjah). He replied : In al-Abṭah.<sup>1215</sup> He then said : Do as your commanders do.<sup>1216</sup>

### Chapter 627

#### PROCEEDING FOR 'ARAFAH

(1908) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) proceeded from Minā when he offered the dawn prayer on *Yaum al-'Arāfah* (9th of Dhū al-Ḥijjah) in the morning, till he came to 'Arafah and he descended at Namrah.<sup>1217</sup> This is the

1213. Meaning brave and chivalrous. This was the title of Quraish and Kinānah, because of their bravery in religion, or due to having resort to al-Ḥamsā', i.e. the Ka'bah. The Quraish used to station at al-Muzdalifah before Islam which is included in the sacred territory (*ḥaram*) and they did not station at al-'Arafāt, and the rest of the Arabs used to station at 'Arafāt. The Quraish used to say that as they were the people of the sacred territory (*ḥaram*), they would not come out for that.

1214. *Ifādah* means to go quickly. The pilgrims should go quickly from 'Arafāt to al-Muzdalifah, stationing at 'Arafāt is essential for the validity of Ḥajj. If one does not stay there, one's Ḥajj will not be valid.

1215. Name of the part of the valley (*wādī*) of Mecca with small pebbles

1216. To offer prayer in places where the Prophet (may peace be upon him) prayed as mentioned in this tradition is recommended and not necessary. If commanders or the political rulers do not pray in these places, one should follow them in order to avoid schism.

1217. A place or a hill near 'Arafah. This place is also known as al-Arāk. This is at the foot of the mountain at 'Arafah. It is recommended to stay at this place.

place where the *imām* (prayer-leader at 'Arafah) takes his place. When the time of the noon prayer came, the Apostle of Allah (may peace be upon him) proceeded earlier and combined the noon and afternoon prayers. He then addressed the people<sup>1218</sup> (i.e. recited the sermon) and proceeded. He stationed at a place of stationing in 'Arafah.

### Chapter 628

#### TO PROCEED TOWARDS 'ARAFAH<sup>1219</sup>

(1909) Ibn 'Umar said: When al-Ḥajjāj<sup>1220</sup> killed Ibn al-Zubair, he sent a message to Ibn 'Umar asking him: At which moment the Apostle of Allah (may peace be upon him) used to proceed (to 'Arafah) this day? He replied: When it happens so, we shall proceed. When Ibn 'Umar intended to proceed, the people said: The sun did not decline. He (Ibn 'Umar) asked: Did it decline? They replied: It did not decline. When they said that the sun had declined, he proceeded.

### Chapter 629

#### THE RECITATION OF SERMON AT 'ARAFAH

(1910) A man from Banū Ḍamrah reported on the authority of his father or his uncle: I saw the Apostle of Allah (may peace be upon him) on the pulpit in 'Arafah.<sup>1221</sup>

(1911) Nubaiṭ said that he had seen the Prophet (may peace be upon him) in 'Arafah.<sup>1222</sup>

(1912) Al-'Addā' b. Khālid b. Hudhah said: I saw the Apostle of Allah (may peace be upon him) on 9 Dhū al-Ḥijjah on a camel standing at the stirrups.

1218. This tradition shows that the Prophet (may peace be upon him) gave the sermon after the prayer. But the tradition narrated by Jābir indicates that he recited the sermon before the prayer. The tradition of Jābir is sound and generally followed by scholars. There might be some misunderstanding on the part of Ibn 'Umar (*ʿAwn al-Ma'būd*, II, 133).

1219. The difference between these two chapters is that one should come out from Minā and proceed to 'Arafah after the dawn prayer. This is shown by the former chapter. This latter one indicates that one should leave the valley of Namrah and proceed to 'Arafāt and stay there after the sun has passed the meridian.

1220. Ḥajjāj was governor of Mecca, appointed by 'Abd al-Malik b. Marwān.

1221. This tradition is not sound. There was no pulpit at 'Arafah during the lifetime of the Prophet (may peace be upon him). The tradition of Jābir indicates that the Prophet (may peace be upon him) had recited the sermon on the camel.

1222. This tradition is supported by the tradition reported by Jābir to the effect that the Prophet (may peace be upon him) had preached in 'Arafah on a camel.

Abū Dāwūd said: Ibn al-'Alā' has reported this tradition from Waki' as narrated by Hannād.

(1913) This tradition has also been transmitted by al-'Addā' b. Khālid through a different chain of narrators to the same effect.

### Chapter 630

#### THE PLACE OF STATIONING AT 'ARAFAH

(1914) Yazīd b. Shaibān said: We were in a place of stationing at 'Arafah which 'Amr (b. 'Abd Allah) thought was very far away from where the *imām* was stationing, when Ibn Mirba' al-Anṣārī came to us and told (us): I am a messenger for you from the Apostle of Allah (may peace be upon him). He tells you: Station where you are performing your devotions for you are an heir to the heritage of Abraham.<sup>1223</sup>

### Chapter 631

#### THE RETURN FROM 'ARAFAH

(1915) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) returned from 'Arafah preserving a quiet demeanour, and he took Usāmah up behind him (on the camel). He said: O people, preserve a quiet demeanour, for piety does not consist in exciting the horses and the camels (i.e. in driving them quickly). He (Ibn 'Abbās) said: Thereafter I did not see them raising their hands<sup>1224</sup> running quickly, till he came to al-Muzdalifah. The narrator Wahb added: He took al-Faḍl b. 'Abbās up behind him (on the camel), and said: O people, piety does not consist in exciting the horses and camels (driving them quickly); you must preserve a quiet demeanour. He (Ibn 'Abbās) said: Thereafter I did not see them raising their hands till he came to Minā.

(1916) Ibrāhīm b. 'Uqbah said: Kuraib told me that he asked Umāmah b. Zaid saying: Tell me how you did in the evening when you rode behind the Apostle of Allah (may peace be upon him). He said: We came to the valley where the people make their camels kneel down to take rest at night. The Apostle of Allah (may

1223. The Prophet (may peace be upon him) ordered them to stay at their *mashā'ir* which means the places of their devotion. The Arabs used to stay at 'Arafāt outside the sacred territory (*ḥaram*) during their *Ḥajj* before Islam. But this was the place appointed by Abraham to stay at 'Arafāt. After the advent of Islam, the Muslims were reluctant to stay at this place because they used to stay there in pre-Islamic days. The Prophet (may peace be upon him) informed that they were conforming to the old practice of Abraham. There was no harm in staying at the place where they used to stay before Islam at 'Arafah.

1224. Meaning forelegs of the camels.

peace be upon him) made his she-camel kneel down, and he then urinated. He then called for water for ablution, and performed the ablution, but he did not perform it minutely (but performed lightly). I asked: Apostle of Allah, prayer? He replied: Prayer ahead of you. He then mounted (the camel) till we came to al-Muzdalifah. There *iqamah* for the sunset prayer was called. The people then made their camels kneel down at their places. The camels were not unloaded as yet, *iqamah* for the night prayer was called and he prayed. The people then unloaded the camels. The narrator Muḥammad added in his version of the tradition: How did you do when the morning came? He replied: Al-Faḍl rode behind him and I walked on foot among the people of the Quraish who went ahead.<sup>1225</sup>

(1917) 'Alī said: He (the Prophet) then took up Usāmah behind him (on the camel), and drove the camel at a quick pace. The people were beating their camels right and left, but he did not pay attention to them; he was saying: O people, preserve a quiet demeanour. He proceeded (from 'Arafāt) when the sun had set.

(1918) Hishām b. 'Urwah reported on the authority of his father: Usāmah b. Zaid was asked when I was sitting along with him: How did the Apostle of Allah (may peace be upon him) travel during the Farewell Pilgrimage when he proceeded from 'Arafah to al-Muzdalifah? He replied: He was travelling at a quick pace; and when he found an opening he urged on his camel. Hishām said: *Naṣṣ* (running or urging on the camel) is above '*anaq* (going at a quick pace).

(1919) Usāmah said: I rode behind the Prophet (may peace be upon him). When the sun set, the Apostle of Allah (may peace be upon him) returned from 'Arafah (to al-Muzdalifah).

(1920) Uāmah b. Zaid said: The Apostle of Allah (may peace be upon him) returned from 'Arafah. When he came to the mountain path, he alighted, urinated and performed the ablution, but he did not perform it completely. I said to him: Prayer? He said: The prayer will be offered ahead of you. He then mounted. When he reached al-Muzdalifah, he alighted, performed the ablution, and performed it well. Thereafter *iqamah* for the prayer was called, and he offered the sunset prayer. Then everyone made his camel kneel down at his place. *Iqamah* was then called for the night prayer, and he offered it, but he did not pray between them.

## Chapter 632

### PRAYER AT A-MUZDALIFAH

(1921) 'Abd Allah b. 'Umar said: The Apostle of Allah (may peace be upon him)

1225. This shows the combination of the sunset and night prayers at al-Muzdalifah. Further, this also indicates that one should not pray the sunset prayer at 'Arafah when one leaves it for al-Muzdalifah.

combined the sunset and the night prayers at al-Muzdalifah.<sup>1226</sup>

(1922) The aforesaid tradition has been transmitted by al-Zuhri through a different chain of narrators. This version adds: Each prayer with an *iqamah*. Ahmad reported on the authority of Waki': he offered each prayer with a single *iqamah*.

(1923) The aforesaid tradition has also been transmitted to the same effect by al-Zuhri with a different chain of narrators beginning with Ibn Hanbal on the authority of Hammād. This version adds: With an *iqamah* for every prayer; he did not call *adhān* for the first prayer and he did not offer supererogatory prayer after any of them. The narrator Makhlad said: He did not call *adhān* for any of them.

(1924) 'Abd Allah b. Mālik said: I offered three *rak'ahs* of the sunset prayer and two *rak'ahs* of the night prayer along with Ibn 'Umar. Thereupon Mālik b. al-Hārith said: What is this prayer? He said: I offered these prayers along with the Apostle of Allah (may peace be upon him) in this place with a single *iqamah*.<sup>1227</sup>

(1925) Sa'id b. Jubair and 'Abd Allah b. Mālik said: We offered the sunset and the night prayers at al-Muzdalifah along with Ibn 'Umar with one *iqamah*. The narrator then narrated the rest of the tradition as reported by Ibn Kathīr.<sup>1228</sup>

(1926) Sa'id b. Jubair said: We returned along with Ibn 'Umar and when we reached al-Muzdalifah he led us in the sunset and night prayers with one *iqamah*, three *rak'ahs* of the sunset prayer, and two *rak'ahs* of the night prayer. When he finished the prayer, Ibn 'Umar said to us: The Apostle of Allah (may peace be upon him) led us in prayer in this way at this place.<sup>1229</sup>

1226. It is recommended (*sunnah*) to combine the sunset and the night prayers at al-Muzdalifah. It is disapproved (*mahrūh*) if one offers them separately. According to Abū Hanīfah, if one prays them before coming over to al-Muzdalifah, one should repeat them when one reaches there.

1227. Al-Khaṭṭābī said: There is a difference of opinion on uttering the *adhān* and the *iqamah* for the sunset and the night prayers at al-Muzdalifah. Al-Shāfi'i holds no *adhān* should be called. Both the prayers will be offered with two *iqamahs*. The reason is that the *adhān* is prescribed for the prayers offered at their proper time. Abū Hanīfah maintains that both *adhān* and *iqamah* will be called for the first prayer, and for the second prayer only *iqamah* will be called and not *adhān*. According to Mālik, *adhān* and *iqamah* will be called separately for each prayer. Sufyān al-Thawri holds that only one *iqamah* will be called for both the prayers. Ahmad b. Hanbal opines that it is sufficient to follow any of these traditions of the Prophet (may peace be upon him) ('*Awn al-Ma'būd*, II, 136).

1228. The tradition reported by Jābir indicates that he offered these two prayers with one *adhān* and two *iqamahs*. This is held by al-Shāfi'i and Ahmad.

1229. Al-A'inī said: There are six views on this question. First, both the prayers should be offered with a separate *iqamah*, and no *adhān* will be called. Second, *iqamah* should be called only once along with the first prayer and no *adhān* will be called. Third, *adhān* should be called for the first and *iqamah* for both. This is the view held by al-Shāfi'i and Ahmad. Fourth, *adhān* and *iqamah* should be called for the first alone. This is the opinion of Abū Hanīfah. Fifth, *adhān* and *iqamah* should be called for each of them separately. This is the view of Mālik. Sixth, *adhān* and *iqamah* will not be called *ab initio* for these prayers. The reason of the difference of opinion is the tradition



(1927) Salamah b. Kubail said : I saw Sa'īd b. Jubair. He called the *iqāmah* at al-Muzdalifah and offered three *rak'ahs* of the sunset prayer and two *rak'ahs* of the night prayer. He then said : I attended Ibn 'Umar. He did like this in this place, and he (Ibn 'Umar) said : I attended the Apostle of Allah (may peace be upon him). He did in a similar way in this place.

(1928) Ash'ath b. Sulaim reported on the authority of his father : I proceeded along with Ibn 'Umar from 'Arafāt towards al-Mazdalifah. He was not tired of uttering "Allah is most great" and "There is no god but Allah," till we came to al-Muzdalifah. He uttered the *adhān* and the *iqāmah* or ordered some person who called the *adhān* and the *iqāmah*. He then led us the three *rak'ahs* of the sunset prayer, turned to us and said : (Another) prayer. Thereafter he led us in the two *rak'ahs* of the night prayer. Then he called for his dinner. He (Ash'ath) said : 'Ilāj b. 'Amr reported a tradition like that of my father on the authority of Ibn 'Umar. Ibn 'Umar was asked about it. He said : I prayed along with the Apostle of Allah (may peace be upon him) in a similar manner.

(1929) Ibn Mas'ūd said : I never saw the Apostle of Allah (may peace be upon him) observe a prayer out of its proper time except (two prayers) at al-Muzdalifah. He combined the sunset and night prayers at al-Muzdalifah, and he offered the dawn prayer that day before its proper time.<sup>1230</sup>

(1930) 'All said : When the morning came, the Prophet (may peace be upon him) stood at the mountain Quzah and said : This is Quzah, and this is a place of stationing, and the whole of al-Muzdalifah is a place of stationing. I sacrificed the animals here, and the whole of Minā is a place of sacrifice. So sacrifice in your dwellings.

(1931) Jābir reported the Prophet (may peace be upon him) as saying ; I halted here<sup>1231</sup> in 'Arafah, and the whole of 'Arafah is a place of halting. I halted here<sup>1232</sup> in al-Muzdalifah, and the whole of al-Muzdalifah is a place of halting. I sacrificed the animals here<sup>1233</sup> and the whole of Minā is a place of sacrifice. So sacrifice in your

of Ibn 'Umar has been narrated from him by a number of narrators in various ('*Awn al-Ma'būd*, II, 136-37).

1230. This does not mean that the Prophet (may peace be upon him) offered the dawn prayer even before the break of dawn. This means that he observed the dawn prayer in the early moments. Abū Ḥanīfah argues from this tradition that the Prophet (may peace be upon him) used to offer the dawn prayer when it was fairly light *isfār* in the ordinary days except at al-Muzdalifah.

1231. He halted near the rocks at 'Arafah. The whole of 'Arafah is a place of halting except the bottom of the valley of 'Urnah.

1232. He halted near al-Mash'ar al-Ḥarām. The whole of al-Muzdalifah is a place of halting except the valley of al-Muḥassir

1233. He sacrificed near the first *jamrah* which is adjacent to the mosque of Minā. One is allowed to sacrifice anywhere in Minā, yet it is better to sacrifice at the place where the Prophet (may peace be upon him) had sacrificed.

dwellings.

(1932) Jābir b. 'Abd Allāh reported the Apostle of Allāh (may peace be upon him) as saying: The whole of 'Arafah is a place of halting; the whole of Minā is a place of sacrifice; the whole of al-Muzdalifah is a place of halting, and all the passes of Mecca are a thoroughfare<sup>1234</sup> and a place of sacrifice.

(1933) 'Umar b. al-Khaṭṭāb said: The Arabs in the pre-Islamic period did not return from al-Muzdalifah till they saw sunlight at the mountain Thabīr.<sup>1235</sup> The Prophet (may peace be upon him) opposed them and returned before the sunrise.<sup>1236</sup>

### Chapter 633

#### EARLY RETURN FROM AL-MUZDALIFAH

(1934) Ibn 'Abbās said: I was among the weak members<sup>1237</sup> of his family whom the Apostle of Allāh (may peace be upon him) sent ahead on the night of al-Muzdalifah.<sup>1238</sup>

(1935) Ibn 'Abbās said: The Apostle of Allāh (may peace be upon him) sent ahead some boys from Banū 'Abd al-Muṭṭalib on donkeys on the night of al-Muzdalifah. He began to pat our thighs (out of love) and said: O young! boys do not throw pebbles at the *jamrah* till the sun rises.<sup>1239</sup>

Abū Dāwūd said: The Arabic word *al-laṭḥ* means to strike softly.

(1936) Ibn 'Abbās said: The Apostle of Allāh (may peace be upon him) used to send ahead the weak members of his family in darkness (to Minā), and command them not to throw pebbles at *jamrahs* until the sun rose.

(1937) 'Ā'ishah (Allāh be pleased with her) said: The Prophet (may peace be upon him) sent Umm Salamah on the night before the day of sacrifice and she threw pebbles at the *jamrah* before dawn.<sup>1240</sup> She hastened (to Mecca) and performed the

1234. This means that all the passes and the routes of Meccā are meant for entrance. One can enter Mecca for Ḥajj by any pass or route. It is, however, better to enter by the way the Prophet (may peace be upon him) entered.

1235. This is a well-known mountain of Mecca and this is the biggest mountain of that city.

1236. It is necessary to return from al-Muzdalifah before sunrise.

1237. I.e. women and children.

1238. It is commendable to send ahead the women and children to Minā from al-Muzdalifah at night to avoid the rush of the people in throwing pebbles at *jamrahs*.

1239. This shows that it is advisable to send the families ahead from al-Muzdalifah to Minā at night so that they could throw pebbles at *jamrahs* before the people reach there. This also indicates that one should throw pebbles at *jamrahs* after sunrise and not before it.

1240. This is specified for women. This injunction should not be generalised. The Prophet (may peace be upon him) of course allowed the slaves who accompanied them to throw pebbles along with them in their time.

circumambulation. That day was the one the Apostle of Allah (may peace be upon him) spent with her.

(1938) 'Aṭā' said: A reporter reported to me about Asmā' that she threw pebbles at the *jamrah* at night. I said: We threw pebbles (at the *jamrah*) at night. She said: We used to do so in the lifetime of the Apostle of Allah (may peace be upon him).<sup>1241</sup>

(1939) Jābir said: The Apostle of Allah (may peace be upon him) hastened from al-Muzdalifah with a quite demeanour and ordered them (the people) to throw small pebbles and he hastened in the valley (*wādī*) of Muḥassir.<sup>1242</sup>

### Chapter 634

#### THE DAY OF THE GREATER *Hajj* (*AL-Hajj AL-AKBAR*)

(1940) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) halted on the day of sacrifice between the *jamrahs* (pillars at Minā) during *Hajj* which he performed. He asked: Which is this day? They replied: This is the day of sacrifice. He said: This is the day of greater *Hajj*.<sup>1243</sup>

(1941) Abū Hurairah said: Abū Bakr sent me among those who proclaim at Minā that no polytheist<sup>1244</sup> should perform *Hajj* after this year and no naked person should go round the House (the Ka'bah),<sup>1245</sup> and that the day of the greater *Hajj* is the day of sacrifice, and that the greater *Hajj* is the *Hajj*.

1241. This shows that it is permissible for women to throw pebbles at *jamrah* at night. A tradition from Asmā' recorded by al-Bukhārī and Muslim indicates that she threw pebbles in the second half of the night in the late hours when the moon set.

1242. The Prophet (may peace be upon him) did not halt in the *wādī* of Muḥassir because the Arabs in the pre-Islamic days used to stay there and tell the stories of the chivalrous deeds of their forefathers. Hence he hastened from that place and did not stop there. The pilgrims are also required to hasten from this valley and not to stop there.

1243. *Al-Hajj al-Akbar* (the greater *Hajj*) has been interpreted variously. This means the day of sacrifice, or the day of 'Arafah (9 Dhū al-Hijjah), or all the season of the *Hajj*, or *al-qirān* (to perform 'Umrah and *Hajj* without taking off *iḥrām* between them), or *Hajj* performed by Abū Bakr. 'Umrah is called *al-Hajj al-Aṣghar* (the smaller *Hajj*) and *Hajj* is called *al-Hajj al-Akbar* as called by the Qur'ān (*'Awn al-Mu'būd*, II, 139).

1244. The disbelievers are not allowed, according to the Qur'ānic verse ix. 28, to enter the *Masjid Ḥaram* and the whole sacred territory (*Ḥaram*). If he enters there, he will be turned out, and if he dies and is buried there, his body will be removed.

1245. For going round the Ka'bah it is necessary to wear clothes and cover private parts. The disbelievers used to go naked round the Ka'bah before Islam. This was prohibited by Islam.

## Chapter 635

THE SACRED MONTHS (*ASHHUR AL-ḤURUM*)

(1942) Abū Bakrah said: The Prophet (may peace be upon him) gave a sermon during his *Ḥajj* and said: Time has completed a cycle and assumed the form of the day when Allah created the heavens and the earth.<sup>1246</sup> The year contains twelve months of which four are sacred, three of them consecutive, viz. Dhū al-Qa'dah, Dhū al-Hijjah and Muharram and also Rajab of Muḍar<sup>1247</sup> which comes between Jumādah and Sha'bān.

(1943) The aforesaid tradition has also been transmitted by Abū Bakrah through a different chain of narrators.

Abū Dāwūd said: Ibn 'Awn has mentioned his ('Abū Bakrah's) name and narrated this tradition: From 'Abd al-Rahmān b. Abī Bakrah on the authority of Abū Bakrah.

## Chapter 636

## ON A PILGRIM WHO DOES NOT HALT IN 'ARAFAH

(1944) 'Abd al-Rahmān Ya'mar al-Daill said: I came to the Holy Prophet (may peace be upon him) when he was in 'Arafah. Some people or a group of people came from Najd. They commanded a person (to ask the Prophet about *Ḥajj*). So he called the Apostle of Allah (may peace be upon him) saying: How is *Ḥajj*? He (the Prophet) ordered a man (to reply). He shouted loudly: The *Ḥajj*, the *Ḥajj* is on the day of 'Arafah. If anyone comes over there before the dawn prayer at the night of al-Muzdalifah, his *Ḥajj* will be complete.<sup>1248</sup> The period of halting at Minā is three

1246. The Arabs before Islam used to change the months of the year by intercalation. There were sometimes thirteen months in the year and months did not remain in their natural position. Consequently *Ḥajj* also shifted every year from month to month. There was much confusion in the months of the year. The Qur'ān, therefore, prohibited the system of intercalation (*naṣi'*) (ix. 37). The month of Dhū al-Hijjah had returned to its natural and real position in the year the Prophet (may peace be upon him) performed *Ḥajj*. He, therefore, said that the time had completed the cycle and assumed the form that Allah created originally. Thus the Prophet (may peace be upon him) pointed out the actual position of Dhū al-Hijjah in the year and asked the Muslims to remember its position in the year. He prohibited them to exercise intercalation to change the months of the year for shifting *Ḥajj* from month to month every year ('Awn al-Ma'būd, II, 140).

1247. Rajab has been attributed to the tribe of Muḍar because they respected it excessively as compared to the rest of the Arab tribes.

1248. This shows that it is obligatory to halt at 'Arafah for the validity of *Ḥajj*. The time of halting at 'Arafah begins from the moment the sun passes the meridian on the 9th of Dhū al-

days. Then whoso hastens (his departure) by two days, it is no sin for him, and whoso delays it there is no sin for him.<sup>1249</sup> The narrator said: He (the Prophet) then put a man behind him on the camel. He began to proclaim this loudly.

Abū Dāwūd said: This tradition has been narrated by Mahrān from Sufyān in a similar way. This version adds: The *Hajj*, the *Hajj*, twice. The version narrated by Yahyā b. Sa'īd al-Qaṭṭān has the words: The *Hajj* only once.

(1945) 'Urwah b. Muḍarris al-Ṭā'ī said: I came to the Apostle of Allāh (may peace be upon him) at the place of halting, that is, al-Muzdalifah. I said: I have come from the mountains of Ṭayy. I fatigued my mount and fatigued myself. By Allāh, I found no hill (on my way) but I halted there. Have I completed my *Hajj*? The Apostle of Allāh (may peace be upon him) said: Anyone who offers this prayer along with us and comes over to 'Arafāt before it by night or day will complete his *Hajj*.<sup>1250</sup> and he may wash away the dirt (of his body).<sup>1251</sup>

### Chapter 637

#### ON COMING OVER TO MINĀ

(1946) 'Abd al-Rahmān b. Mu'ādh said that he heard a man from the Companions of the Prophet (may peace be upon him) say: The Prophet (may peace be upon him) addressed the people at Minā and he made them stay in their dwellings. He then said: The *Muhājirūn* (Emigrants) should stay here, and he made a sign to the right side of the *qiblah*, and the *Ansār* (the Helpers) here, and he made a sign to the left side of the *qiblah*; the people should stay around them.

*Hijjah* till the dawn of the 10th of Muḥarram. If a pilgrim stays at 'Arafah for a moment during this period, his *Hajj* will be valid.

1249. The three days of staying at Minā begin from the 11th of Dhū al-Ḥijjah till the 13th of Dhū al-Ḥijjah. The 10th of Dhū al-Ḥijjah is not counted among them. If anyone returns on the 12th of Dhū al-Ḥijjah, there is no harm. This is allowed on the basis of the Qur'ānic verse, ii. 203.

1250. This shows that if a man halts at 'Arafah at any moment on the 9th of Dhū al-Ḥijjah from the decline of the sun till the dawn of the 10th of Dhū al-Ḥijjah, his *Hajj* will be valid. The followers of Mālik contend that the day follows the night in respect of halting at 'Arafah. Hence, if a pilgrim does not stay there till the sun sets he will lose his *Hajj*. He should perform it next year. According to al-Ḥasan, he should sacrifice a camel. His *Hajj* will thus be valid. The majority of the jurists maintain that if a person proceeds from 'Arafah before the sun sets, he should offer a sacrifice. Mālik and al-Shāfi'ī hold that if he leaves 'Arafah before the sun sets but returns to it before the break of dawn, he should not offer any sacrifice (*ʿAwn al-Ma'būd*, II, 142).

1251. This means that he should return to Minā, throw pebbles to the *jamrahs*, and offer sacrifice there. Finally he should perform *offering* and take a bath and shave his hair.



## Chapter 638

ON WHICH DAY ADDRESS SHOULD BE  
GIVEN AT MINĀ

(1947) Ibn Abī Najlā reported from his father on the authority of two men from Banū Bakr who said: We saw the Apostle of Allah (may peace be upon him) addressing (the people) in the middle of the *tashriq* days<sup>1252</sup> when we were staying near his mount. This is the address<sup>1253</sup> of the Apostle of Allah (may peace be upon him) which he gave at Minā.

(1948) Sarrah daughter of Nabhān who was mistress of a temple in pre-Islamic days said: The Prophet (may peace be upon him) addressed us on the second day of sacrifice (*yaum al-ru'ūs*)<sup>1254</sup> and said: Which is this day? We said: Allah and His Apostle are better aware. He said: Is this not the middle of the *tashriq* days?<sup>1255</sup>

## Chapter 639

THE VIEW THAT THE PROPHET DELIVERED AN ADDRESS  
ON THE DAY OF SACRIFICE (THE 10TH OF  
DHŪ AL-ḤIJJAH) AT MINĀ

(1949) Harmās b. Ziyād al-Bāhilī said: I saw the Prophet (may peace be upon him) addressing the people on his she-camel al-'Aqba',<sup>1256</sup> on the day of sacrifice at Minā.<sup>1257</sup>

(1950) Abū Umāmah said: I heard the address of the Apostle of Allah (may peace be upon him) at Minā on the day of sacrifice.<sup>1258</sup>

1252. The 12th of Dhū al-Ḥijjah. The *tashriq* days are the 11th, 12th and 13th of Dhū al-Ḥijjah.

1253. He gave this sermon on the 10th of Dhū al-Ḥijjah, the day of sacrifice.

This means that the Prophet (may peace be upon him) gave two sermons on the 10th and 12th of Dhū al-Ḥijjah and they were similar in respect of their theme and subject. By means of these addresses he meant to teach the people the injunctions of *Ḥajj* and other relevant commandments.

1254. The second day of sacrifice was called *yaum al-ru'ūs* (the day when heads are eaten) because the Companions used to eat the heads of the sacrificial animals on that day.

1255. The *tashriq* days are 11th, 12th and 13th of Dhū al-Ḥijjah. The middle of the *tashriq* days is the 12th of Dhū al-Ḥijjah. This shows that he addressed on the 12th of Dhū al-Ḥijjah.

1256. Al-'Aqba' is a camel whose ears are torn. But here this is the name of the Prophet's (may peace be upon him) she-camel which might have had her ears torn.

1257. This is the address given by the Prophet (may peace be upon him) at Minā on the 10th of Dhū al-Ḥijjah after the noon prayer.

1258. The 10th of Dhū al-Ḥijjah.

### Chapter 640

#### AT WHAT TIME THE ADDRESS SHOULD BE GIVEN ON THE DAY OF SACRIFICE

(1951) Rāfi' b. 'Amr al-Muzanī said: I saw the Apostle of Allāh (may peace be upon him) addressing<sup>1259</sup> the people at Minā (on the day of sacrifice) when the sun rose high (i.e. in the forenoon) on a white mule, and 'Alī (Allāh be pleased with him) was interpreting on his behalf; some people were standing and some sitting.

### Chapter 641

#### WHAT SHOULD THE IMĀM MENTION IN HIS ADDRESS AT MINĀ

(1952) 'Abd al-Raḥmān b. Mu'ādh al-Taimī said: The Apostle of Allāh (may peace be upon him) addressed us when we were at Minā. Our ears were open and we were listening to what he was saying, while we were in our dwellings. He began to teach them the rites of *Hajj*<sup>1260</sup> till he reached<sup>1261</sup> the injunction of throwing pebbles at the *jamrahs* (pillars at Minā). He put his forefingers in his ears and said: (Throw) small pebbles. He then commanded the Emigrants (*Muhājirūn*) to station themselves. They stationed themselves before the mosque. He then commanded the Helpers (*Anṣar*) to encamp. They encamped behind the mosque. Thereafter the people encamped.

### : Chapter 642

#### PASSING NIGHTS AT MECCA DURING THE PERIOD OF STAYING AT MINĀ

(1953) Ibn Juraij asked Ibn 'Umar: We sell the property of the people; so one of us goes to Mecca and passes the night there with the property (during the stay at Minā). He said: The Apostle of Allāh (may peace be upon him) used to pass night and day at Minā.<sup>1262</sup>

1259. This shows the legitimacy of the address on the day of sacrifice. The view that there is no sermon on the day of sacrifice is not correct. The Mālikīs and the Ḥanafīs, however, maintain that there is no sermon on the day of sacrifice.

1260. This shows that the sermon delivered at Minā contains teachings about *Hajj* and its details.

1261. Or it means that he reached the place where pebbles are thrown at the *jamrahs* where he demonstrated the injunction and pointed out that the pebbles should be small.

1262. It is disputed amongst scholars whether a pilgrim can pass his night at Mecca during his stay at Minā for some necessity. This tradition shows that passing the night at Minā is against the

(1954) Ibn 'Umar said : Al-'Abbās sought permission from the Apostle of Allah (may peace be upon him) to pass the night at Mecca during the period of his stay at Minā for distributing water among the people. He gave him permission.<sup>1263</sup>

### Chapter 643

#### THE PRAYER AT MINĀ

(1955) 'Abd al-Rahmān b. Yazīd said : 'Uthmān prayed four *rak'ahs*<sup>1264</sup> at Minā. 'Abd Allah (b. Mas'ūd) said : I prayed two *rak'ahs* along with the Prophet (may peace be upon him) and two *rak'ahs* along with 'Umar. The version of Ḥaṣṣ added : And along with 'Uthmān during the early period of his caliphate. He ('Uth nā ) began to offer complete prayer (i.e. four *rak'ahs*) later on. The version of Abū Mu'āwiyah added : Then your modes of action varied. I would like to pray two *rak'ahs* acceptable to Allah instead of four *rak'ahs*.

Al-A'mash said : Mu'āwiyah b. Qurrah reported to me from his teachers : 'Abd Allah (b. Mas'ūd) once prayed four *rak'ahs*. He was told : You criticised 'Uthmān, but you yourself prayed four ? He replied : Dissension is evil.<sup>1265</sup>

(1956) Al-Zuhri said : 'Uthmān prayed four *rak'ahs* at Minā because he resolved

*sunna*. Ibn 'Abbās holds that if a man has his property at Minā he can pass the night at Mecca for its protection. According to Abū Ḥanīfah, he can pass the night at Mecca but he will be sinful. Al-Shāfi'ī holds that this permission is exclusively meant for those who distribute water among the people. If he passes one night there will be one dirham on him, and if he passes two nights, he will have to pay two dirhams. If he passes many nights he should offer sacrifice. Mālik holds that he should offer sacrifice if he passes one night at Mecca (*Awn al-Ma'būd*, II, 145).

1263. This shows that it is permissible to pass the night at Mecca for some need

1264. A number of interpretations have been offered for the action of 'Uthmān in praying four *rak'ahs* at Minā : (1) He intended to settle there and became a resident. Hence he prayed four *rak'ahs* like the residents. (2) He had his property at al-Tā'if and wanted to stay there (3) He might have held that the traveller was given option between shortening the prayer and praying completely. Shortening the prayer was not necessary. (4) Ibn 'Abbās held that if a traveller comes to his family or to his cattle, he can pray completely. This might be the view of 'Uthmān.

There are other interpretations too. This, however, shows that there must have been choice for a traveller between shortening and completing the prayer. Otherwise the Companions of the Prophet (may peace be upon him) must have objected to the action of 'Uthmān. He could not keep silence and agree upon an error. 'Abd Allah b. Mas'ūd too prayed four *rak'ahs* along with 'Uthmān though he expressed the excuse by saying that dissension was evil (*Awn al-Ma'būd*, II, 145).

1265. 'Abd Allah b. Mas'ūd, by this action of compromise, set up an example of the unity and integration of the community. The Prophet (may peace be upon him) in a number of his traditions has warned against dissension, and schism among the Muslims. Therefore the Companions always avoided anything which caused disintegration of the community. He preferred to say four *rak'ahs* to avoid dissension, though he himself considered saying two *rak'ahs* to be correct for a traveller.

to stay there after *Hajj*.<sup>1266</sup>

(1957) Ibrāhīm said : 'Uthmān prayed four *rak'ahs* (at Minā) for he made it his home (for settlement).

(1958) Al-Zuhrī said : When 'Uthmān placed his property at al-Ṭā'if and intended to settle there, he prayed four *rak'ahs*. The rulers after him followed the same practice.

(1959) Al-Zuhrī said : 'Uthmān offered complete prayer at Minā for the sake of bedouins who attended (*Hajj*) in large numbers that year. He led the people four *rak'ahs* in prayer in order to teach them that the prayer (i.e. noon or afternoon prayer) essentially contained four *rak'ahs*.<sup>1267</sup>

### Chapter 644

#### SHORTENING OF PRAYER BY THE PEOPLE OF MECCA (ON THE OCCASION OF *Hajj*)

(1960) Ḥārithah b. Wahb al-Khuzā'i, whose mother was the wife of 'Umar and who gave birth to 'Ubaid Allah b. 'Umar, said : I prayed along with the Apostle of Allah (may peace be upon him) at Minā and the people gathered there in large numbers. He led us two *rak'ahs* in prayer in the Farewell Pilgrimage.<sup>1268</sup>

Abū Dāwūd said : Ḥārithah belonged to the tribe of Khuzā'ah, and they had their houses in Mecca.

### Chapter 645

#### THROWING PEBBLES AT THE *JAMRAHS* (PILLARS AT MINĀ)

(1961) Sulaimān b. 'Amr b. al-Aḥwaṣ reported on the authority of his mother :

1266. The chain of this tradition is broken. A link between 'Uthmān and al-Zuhrī is missing, for al-Zuhrī did not see 'Uthmān (*'Awn al-Ma'būd*, II, 145).

1267. This is an interpretation of the action of 'Uthmān. The pilgrims in general are required to shorten their prayer at Minā in case they are travellers.

1268. Al-Khaṭṭābī said : This does not mean that the people of Mecca should shorten their prayer at Minā and Arafāt. The Prophet (may peace be upon him) shortened his prayer because he was a traveller. 'Umar used to lead the people two *rak'ahs* in prayer at 'Arafāt during his caliphate. When he uttered the salutation he turned to the people and said : Complete your prayer, natives of Mecca ; we are travellers. This question is disputed among scholars. According to al-Shāfi'i, the *imām* and the travellers should shorten their prayer at 'Arafāt. After completing their prayer, the people of Mecca should stand and complete four *rak'ahs*. This is the view held by Sufyān al-Thawrī, Aḥmad b. Ḥanbal and Abū Ḥanīfah. 'Aṭa', Mujāhid and al-Zuhrī are also reported to have held this view. Mālik, al-Awzā'i and Ishāq maintain that when the *imām* shortens his prayer all those who

I saw the Apostle of Allah (may peace be upon him) throwing pebbles at the *jamrah*<sup>1269</sup> from the bottom of the *wādī*<sup>1270</sup> (valley) while he was riding (on a camel). He was uttering the *takbīr* (Allah is most great) with each pebble. A man behind him was shading him. I asked about that man. They (the people) said: He is al-Faḍl b. al-'Abbās. The people crowded. The Prophet (may peace be upon him) said: O people, do not kill each other; when you throw pebbles at the *jamrah*, throw small pebbles.<sup>1271</sup>

(1962) Sulaimān b. 'Amr b. Aḥwaṣ reported on the authority of his mother: I saw the Apostle of Allah (may peace be upon him) near the *Jamrat al-'Aqabah* (the third or last pillar) riding (on a camel) and I saw a pebble between his fingers. He threw the pebbles and the people also threw (stones at the *jamrah*).<sup>1272</sup>

(1963) The aforesaid tradition has also been transmitted by Yazīd b. Abī Ziyād with a different chain of narrators. This version adds the words: He (the Prophet) did not stand near it (the *jamrah*).

(1964) Nāfi' reported on the authority of Ibn 'Umar. He (Ibn 'Umar) used to come (to Minā) and threw pebbles three days after the day of sacrifice walking when arriving and returning (both ways). He reported that the Prophet (may peace be upon him) used to do so.<sup>1273</sup>

(1965) Jābir b. 'Abd Allah said: I saw the Apostle of Allah (may peace be upon him) throwing pebbles on the day of sacrifice while on his riding beast and saying: Learn your rites, for I do not know whether I am likely to perform Ḥajj after this occasion.

(1966) Jābir said: I saw the Apostle of Allah (may peace be upon him) throwing pebbles on the day of sacrifice while on his riding beast in the fore-

follow him should shorten their prayer; the natives of Mecca and others are all equal in this respect ('*Awn al-Ma'būd*, II, 146).

1269. There are three pillars at Minā called *jamrahs*. Originally it means a pebble, but is applied to a heap of stones (pillars) of which there are three in the valley of Minā. It is a rite of Ḥajj to throw small stones at them.

1270. This refers to the valley of Minā. It is recommended to throw pebbles from the bottom of the valley which is the course of flowing of water. If it is not possible to throw pebbles from the bottom, one is permitted to throw from anywhere in the valley.

1271. Pebbles that are thrown should be small, about the size of date-stone.

1272. These traditions show that it is permissible to throw pebbles at the *jamrahs* riding on a camel. Al-Shāfi'ī holds that if a pilgrim reaches Minā walking he should throw stones at the *Jamrat al-'Aqabah* walking, and if he reaches there riding he should throw riding. But this is recommended, not necessary.

1273. This shows that it is better to throw pebbles on foot.

Al-Mundhirī said: The narrator 'Abd Allah b. 'Umar b. Ḥafṣ in the chain of this tradition has been criticised by the traditionists.



noon,<sup>1274</sup> and next when the sun had passed the meridian.

(1967) Wabrah said: I asked Ibn 'Umar: When should I throw pebbles at the *jamrah*? He replied: When your *imām* (leader at *Hajj*) throws pebbles, at that time you should throw them. I repeated the question to him. Thereupon he said: We used to wait for the time when the sun passes the meridian. When the sun declined, we threw the pebbles.

(1968) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) performed the obligatory<sup>1275</sup> circumambulation of the Ka'bah at the end of the day of sacrifice after he had offered the noon prayer. He then returned to Minā and stayed there during the *tashriq* days and he threw pebbles at the *jamrahs* when the sun declined. He threw seven<sup>1276</sup> pebbles at each of the *jamrahs*, uttering the *takbīr* (Allah is most great) at the time of throwing each pebble. He stood at the first and the second *jamrah*,<sup>1277</sup> and prolonged his standing there, making supplications with humiliation. He threw pebbles at the third *jamrah* but did not stand there.<sup>1278</sup>

(1969) 'Abd al-Rahmān b. Yazīd reported on the authority of Ibn Mas'ūd: When Ibn Mas'ūd came to the largest *jamrah*, he stood with the House (the Ka'bah) on his left and Minā on his right, and he threw seven pebbles at the *jamrah*. Then he said: Thus did he throw to whom *Sūrat al-Baqarah* was sent down.<sup>1279</sup>

(1970) Abū al-Baddāḥ b. 'Āṣim reported on the authority of his father 'Āṣim: The Apostle of Allah (may peace be upon him) gave permission to the herdsmen of

1274. Forenoon (*duḥān*) means the time after the sunrise till the sun passes the meridian. It is permissible according to al-Shāfi'ī to throw pebbles before the break of dawn. The Ḥanāfi, Aḥmad and Ishāq are of opinion that one should throw pebbles at the *Jamrat al-Aqabah* after sunrise. It is also permissible to throw pebbles after the break of dawn before sunrise. If one throws before the break of dawn one should repeat it. It is permissible for women and children to throw pebbles in the last hours of the night, but not in early hours.

It should be noted that throwing pebbles at the *jamrahs* is necessary (*wājib*) ('*Awn al-Ma'būd*, II, 147).

1275. This is called *Tawāf Ifāqah* or *Tawāf Ziyārah* (the last circumambulation). It is necessary to perform this circumambulation. The Prophet (may peace be upon him) performed it on 'the 10th of Dhū al-Ḥijjah after the noon prayer.

1276. One should throw seven pebbles at each *jamrah* uttering the *takbīr* with each pebble.

1277. It is recommended to stand at the first two *jamrahs* after throwing pebbles at them and make supplication for a long time.

1278. This shows that one should not stand at the last *jamrah* known as *Jamrat al-Aqabah*. One should go away just after throwing the pebbles at this *jamrah*.

1279. This indicates that the number of pebbles should be seven. Mālik and al-Auṣā'ī maintain that if a pilgrim throws less than seven pebbles he should offer a sacrifice. According to al-Shāfi'ī if one omits one pebble one should give a mudd in charity, and two mudds if one omits two pebbles. In case a man omits three or more pebbles he should offer sacrifice. The Ḥanāfi hold that if a man omits less than three pebbles he should give half *gā'* in charity. If he omits more than three pebbles he should offer sacrifice ('*Awn al-Ma'būd*, II, 148).

the camels not to pass night at Minā and asked them to throw pebbles on the day of sacrifice, and to throw pebbles at the *jamrahs* the next day and the following two days, and on the day of their return.<sup>1280</sup>

(1971) Abū al-Baddāḥ b. (ʿĀṣim b.) ʿAdī<sup>1281</sup> reported on the authority of his father: The Prophet (may peace be upon him) permitted the herdsmen of the camel to lapidate the *jamrahs* one day and omit one day.<sup>1282</sup>

(1972) Abū Mijlāz said: I asked Ibn ʿAbbās about a thing concerning the throwing of stones at the *jamrahs*. He said: I do not know whether the Apostle of Allah (may peace be upon him) threw six or seven pebbles.<sup>1283</sup>

(1973) ʿĀʾishah reported the Apostle of Allah (may peace be upon him) as saying: When one of you throws pebbles at the last *jamrah* (*Jamrat al-ʿAqabah*), everything becomes lawful for him except women (sexual intercourse).<sup>1284</sup>

Abū Dāwūd said: This is a weak tradition. The narrator al-Ḥajjāj neither saw al-Zuhri nor heard traditions from him.

### Chapter 646

#### SHAVING AND CLIPPING THE HAIR

(1974) ʿAbd Allah b. ʿUmar said that the Apostle of Allah (may peace be upon him) said: O Allah, have mercy on those who have themselves shaved. The people said: Apostle of Allah, and those who have clipped their hair. He again said: O Allah, have mercy on those who have themselves shaved. The people said: Apostle of Allah, those who have clipped their hair. He said: and those who clip their hair.<sup>1285</sup>

1280. The day of sacrifice refers to the 10th of Dhū al-Ḥijjah, and the following two days are the 11th and the 12th of Dhū al-Ḥijjah. The day of return refers to the 13th of Dhū al-Ḥijjah.

The herdsmen had to look after their camels. Hence the Prophet (may peace be upon him) gave them permission to pass their night with their camels and to come over to Minā every day for lapidation. In case they stay on the 13th of Dhū al-Ḥijjah, they should throw too on the same day (*ʿAwn al-Maʿbūd*, II, 148).

1281. ʿAdī is the name of the grandfather of Abū al-Baddāḥ.

1282. Al-Tirmidhī observes that the previous tradition is more sound than this one.

1283. It is established on the basis of sound traditions narrated by Ibn Masʿūd, Ibn ʿUmar and Jābir as recorded in the collections of al-Bukhārī and Muslim that the Prophet (may peace be upon him) threw seven pebbles. Therefore the doubt of Ibn ʿAbbās does not stand. The sound tradition should be followed and not this tradition of Ibn ʿAbbās in which he is doubtful.

1284. This is supported by a number of traditions narrated by Ahmad in his *Musnad*. After throwing the stones at the last *jamrah* (*Jamrat al-ʿAqabah*) all things forbidden in the state of *iḥrām* becomes lawful except having sexual intercourse. It is lawful after the necessary circumambulation (*Ṭawāf al-Ziyārah*).

1285. This shows that shaving carries more reward than clipping, for the Prophet (may peace be upon him) prayed twice for it. But it should be noted that shaving of the head should be

(1975) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) had his head shaved at the Farewell Pilgrimage.

(1976) Anas b. Mālik said : The Apostle of Allah (may peace be upon him) threw pebbles at the last *jamrah* (*Jamrat al-'Aqabah*) on the day of sacrifice. He then returned to his lodging at Minā. He called for a sacrificial animal which he slaughtered. He then called for a barber. He held the right side of his head and shaved it. He then began to distribute among those who were around him one or two hair each. He then held the left side of his head and shaved it. Again he said : Is Abū Ṭalḥah here ? He then gave it (the hair shaved off) to Abū Ṭalḥah.<sup>1286</sup>

(1977) The aforesaid tradition has also been transmitted by Hishām b. Ḥassān through a different chain of narrators. This version adds : He said to the barber : Start with the right side and shave it.<sup>1287</sup>

(1978) Ibn 'Abbās said : The Prophet (may peace be upon him) was asked (about rites of *Ḥajj*) on the day of stay at Minā. He said : No harm. A man asked him : I got myself shaved before I slaughtered. He said : Slaughter, there is no harm. He again asked : The evening came but I did not throw stones at the *jamrah*. He replied : Throw stones now ; there is no harm.<sup>1288</sup>

(1979) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : Shaving is not a duty laid on women ; only clipping the hair is incumbent on them.<sup>1289</sup>

complete and not in part. This is held by Mālik and Aḥmad, but al-Shāfi'ī and the Ḥanafīs took it as commendable. According to the Ḥanafīs, it is necessary to shave one-fourth of the head. The shaving will not be valid if one shaves less than this. Al-Shāfi'ī holds that the minimum amount of shaving is three hair. The same difference of opinion exists in the matter of clipping.

The majority of scholars hold that shaving is a part of the rites of *Ḥajj* after offering sacrifice. But 'Aṭā', Abū Yūsuf and some Mālikīs think that it is meant only for taking off *ḥirām* ('*Awn al-Ma'būd*, II, 149).

1286. This indicates the permissibility of keeping of the hair of the Prophet (may peace be upon him) as a souvenir.

1287. This shows that it is commendable to start shaving with the right side and then the left side of the head.

1288. Four acts are recommended on the day of sacrifice : Throwing stones at the last *jamrah* (*'Aqabah*), then sacrifice, then shaving, and finally obligatory circumambulation of the Ka'bah (*Tawāf al-Ziyārah*). It is *sunnah* (recommended) to maintain this order. This is the view of al-Shāfi'ī, Aḥmad and Ishāq. But Abū Ḥanīfah and Mālik take this order as necessary (*wājib*). Ibn Qudamah has said in *al-Mughni* that there is no harm in changing the order if done inadvertently. The Prophet (may peace be upon him) did not mind for these omissions as it was the first time that he taught the rites of *Ḥajj* and the people were not used to them. They were learning these rites from the Prophet (may peace be upon him). Hence any change in the order was neglected by him ('*Awn al-Ma'būd*, II, 150).

1289. This indicates that women should not get their heads shaved. They should only clip their hair. There is option for men ; they can either shave or clip. But this option is not for women. The Prophet (may peace be upon him) in a tradition forbade women to shave heads.

(1980) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: Shaving is not a duty laid on women; only clipping the hair is incumbent on them.

### Chapter 647

#### PERFORMING 'UMRAH<sup>1290</sup>

(1981) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) performed 'Umrah before performing Ḥajj.<sup>1291</sup>

(1982) Ibn 'Abbās said: By Allah, the Apostle of Allah (may peace be upon him) did not make 'Ā'ishah perform 'Umrah during Dhū al-Ḥijjah but to discontinue the practice of the idolators (in Arabia before Islam), for this clan of Quraish and those who followed them used to say: When the fur of the camel abounds, and the wounds on the back of the camels are recovered and the month of Ṣafar begins, 'Umrah becomes lawful for one who performs 'Umrah. They considered performing 'Umrah unlawful till the months of Dhū al-Ḥijjah and al-Muḥarram passed away.<sup>1292</sup>

(1983) Abū Bakr b. 'Abd al-Raḥmān said: The messenger of Marwān whom he sent to Umm Ma'qil reported to me. She said: Abū Ma'qil accompanied the Apostle of Allah (may peace be upon him) during Ḥajj. When he came (to her) she said: You know that Ḥajj is incumbent on me. They walked until they entered upon him (i.e. the Prophet) and she asked (him): Apostle of Allah, Ḥajj is due on me, and Abū Ma'qil has a camel. Abū Ma'qil said: She spoke the truth, I have dedicated it to the path of Allah. The Apostle of Allah (may peace be upon him) said: Give it to her, that is in the path of Allah. So he gave the camel to her. She then said: Apostle of Allah, I am a woman who has become aged and ill. Is there any action which would be sufficient for me as my Ḥajj? He replied: 'Umrah performed during Ramaḍān

1290. Literally, 'Umrah means to visit a sacred place. Legally, it stands for performing the circumambulation of the Ka'bah and running between al-Ṣalā' and al-Marwah. Halting at 'Arafah and passing the night at al-Muzdalifah are not part of 'Umrah.

1291. The people used to think that 'Umrah was not permissible before performing Ḥajj. Ibn 'Umar informed them that there was no harm in performing 'Umrah before Ḥajj as the Prophet (may peace be upon him) himself had done so.

1292. The Arabs in pre-Islamic days would not perform 'Umrah during the sacred months in which Ḥajj is performed. They believed that 'Umrah should be performed after Ḥajj when the fur of the camels abounds and their wounds after the toiling journey of Ḥajj are recovered. To put an end to this un-Islamic practice the Prophet (may peace be upon him) asked 'Ā'ishah to perform 'Umrah during the months of Ḥajj to set an example for the people.

is sufficient as *Hajj*.<sup>1293</sup>

(1984) Umm Ma'qil said : When the Apostle of Allah (may peace be upon him) performed the Farewell Pilgrimage, and we had a camel, Abū Ma'qil dedicated it to the path of Allah. Then we suffered from a disease, and Abū Ma'qil died. The Prophet (may peace be upon him) went out (for *Hajj*). When he finished the *Hajj*, I came to him. He said (to me): Umm Ma'qil, what prevented you from coming out for *Hajj* along with us? She said: We resolved, but Abū Ma'qil died. We had a camel on which we could perform *Hajj*. But Abū Ma'qil had bequeathed it for the path of Allah. He said: Why did you not go out (for *Hajj*) upon it, for *Hajj* is in the path of Allah? If you miss this *Hajj* along with us, perform 'Umrah during Ramaḍān, for it is like *Hajj*.<sup>1294</sup> She used to say: *Hajj* is *Hajj*, and 'Umrah is 'Umrah. The Apostle of Allah (may peace be upon him) said it to me: I do not know whether it was peculiar to me.

(1985) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) intended to perform *Hajj*. A woman said to her husband: Make me perform *Hajj* along the Apostle of Allah (may peace be upon him). He said: I have nothing on which I can make you perform *Hajj*. She said: You may perform *Hajj* on your such-and-such camel. He said: That is dedicated to the path of Allah, the Exalted. He then came to the Apostle of Allah (may peace be upon him) and said (to him): My wife has conveyed her greetings and blessings of Allah to you. She has asked about performing *Hajj* along with you. She said (to me): Make me perform *Hajj* along with the Apostle of Allah (may peace be upon him). I said (to her): I have nothing upon which I can make you perform *Hajj*. She said: Make me perform *Hajj* on your such-and-such camel. I said: That is dedicated to the path of Allah, the Exalted. He replied: If you made her perform *Hajj* on it, that would be in the path of Allah. He said: She has also requested me to ask you: What is that action which is equivalent to performing *Hajj* with you? The Apostle of Allah (may peace be upon him) said: Convey my greetings, mercy of Allah and His blessings to her and tell her that 'Umrah during Ramaḍān is equivalent to performing *Hajj* along with me.

(1986) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) performed two 'Umrahs: one 'Umrah in Dhū al-Qa'dah, and the other in

1293. As Umm Ma'qil was aged and ill, she was not sure whether she could perform *Hajj* the next year. Therefore she wanted to get the reward of *Hajj* as soon as possible. The Prophet (may peace be upon him) pointed out that performing 'Umrah during Ramaḍān carries as much reward as *Hajj*. This tradition indicates the excellence of performing 'Umrah during Ramaḍān. It does not mean that if *Hajj* is incumbent on a person, 'Umrah performed during Ramaḍān will compensate for the obligatory *Hajj*.

1294. 'Umrah during Ramaḍān carries the reward of *Hajj*. It does not stand for the obligatory *Hajj*. If *Hajj* is incumbent on a person, he should perform it. 'Umrah will not do.



Shawwāl.<sup>1295</sup>

(1987) Mujāhid said: Ibn 'Umar was asked: How many times did the Apostle of Allah (may peace be upon him) perform 'Umrah? He said: Twice. 'Ā'ishah said: Ibn 'Umar knew that the Apostle of Allah (may peace be upon him) performed three 'Umrahs in addition to the one he combined with the Farewell Pilgrimage.

(1988) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) performed four 'Umrahs, viz. 'Umrat al-Ḥudaibīyyah; the second is the one when they (the Companions) were agreed upon performing 'Umrah next year; the third is 'Umrah performed from al-Ji'rānah; the fourth is the one which he combined with his Hajj.

(1989) Anas said: The Apostle of Allah (may peace be upon him) performed four 'Umrahs all in Dhū al-Qa'dah except the one which he performed along with his Hajj.

Abū Dāwūd said: From here the narrator Hudbah (b. Khālid) became certain. I heard it from Abū al-Walīd, but I did not retain: An 'Umrah, during the treaty of al-Ḥudaibīyyah, or from al-Ḥudaibīyyah; and 'Umrat al-Qa'dā' in Dhū al-Qa'dah, and an 'Umrah from al-Ji'rānah where he (the Prophet) distributed the booty of Ḥunain in Dhū al-Qa'dah, and an 'Umrah along with his Hajj.

### Chapter 648

ON A WOMAN WHO RAISES HER VOICE IN THE TALBIYAH FOR 'UMRAH WHEN SHE WEARS IḤRĀM, BUT SHE MENSTRUATES, THEN THE TIME OF HAJJ COMES, SHE ABANDONS 'UMRAH AND WEARS IḤRĀM FOR HAJJ, SHOULD SHE ATONE FOR 'UMRAH?

(1990) Ḥafṣah, daughter of 'Abd al-Raḥmān b. Abū Bakr, reported on the authority of her father: The Apostle of Allah (may peace be upon him) said to 'Abd

1295. The Prophet (may peace be upon him) performed four 'Umrahs in toto. One in 6 A.H., the other in 7 A.H., the third from al-Ji'rānah in 8 A.H., and the fourth in 10 A.H. along with Hajj.

The other sound traditions indicate that the Prophet (may peace be upon him) performed all the three 'Umrahs in the month of Dhū al-Qa'dah, and the last along with Hajj. Therefore the statement of 'Ā'ishah has been interpreted in various ways. Ibn Qayyim says that it might be a misunderstanding on the part of 'Ā'ishah. The Prophet (may peace be upon him) might have performed one 'Umrah towards the end of Dhū al-Qa'dah and the other in the beginning of Shawwāl. What is more correct is that she referred to 'Umrah performed from al-Ji'rānah in 8 A.H. The Prophet (may peace be upon him) in fact proceeded in the month of Shawwāl but did not perform 'Umrah in that month. During this journey he performed 'Umrah from al-Ji'rānah in Dhū al-Qa'dah. She refers to the month in which the Prophet (may peace be upon him) started his journey ('Awn al-Ma'būd, II, 153).

al-Raḥmān: 'Abd al-Raḥmān, put your sister 'Ā'ishah on the back of the camel behind you and make her perform 'Umrah from al-Tan'im.<sup>1296</sup> When you come down from the hillock (in al-Tan'im), she must wear (*iḥrām* for 'Umrah), for this is an 'Umrah accepted (by Allah).<sup>1297</sup>

(1991) Muḥarrish al-Ka'bī said: The Prophet (may peace be upon him) entered al-Ji'rānah. He came to the mosque (there) and prayed as long as Allah desired; he then wore *iḥrām*. Then he rode his camel and faced Baṭn Sarif<sup>1298</sup> till he reached the way which leads to Medina. He returned from Mecca (at night to al-Ji'rānah) as if he had passed the night at Mecca.<sup>1299</sup>

### Chapter 649

#### STAYING DURING 'UMRAH

(1992) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) stayed (at Mecca) for three days during 'Umrah for atonement ('*Umrat al-Qaḍā'*).<sup>1300</sup>

### Chapter 650

#### THE OBLIGATORY CIRCUMAMBULATION (*ṬAWĀF AL-IFĀḌAH* OR *TAWĀF AL-ZIYĀRAH*)<sup>1301</sup>

(1993) Ibn 'Umar said: The Prophet (may peace be upon him) performed the

1296. The name of a place three miles distant from Mecca.

1297. 'Ā'ishah went out along with the Prophet (may peace be upon him) at the Farewell Pilgrimage. She wore *iḥrām* for performing 'Umrah. But on her way to Mecca she menstruated. Her menstruation continued till the day of 'Arafah reached. The Prophet (may peace be upon him) asked her to abandon 'Umrah which she had intended and ordered her to perform Ḥajj. After she finished the rites of Ḥajj, he asked her brother 'Abd al-Raḥmān to take her to al-Tan'im and make her perform 'Umrah. In fact, she performed this 'Umrah as an atonement for the one she had missed. The heading of this chapter shows that if a woman abandons her 'Umrah, she must atone for it ('*Awn al-Ma'būd*, II, 154-55).

1298. The name of a place six miles distant from Mecca.

1299. The tradition recorded by al-Tirmidhī clarifies this tradition: The Prophet (may peace be upon him) came out from al-Ji'rānah at night and entered Mecca at night. He performed 'Umrah and returned to al-Ji'rānah on the same night and reached al-Ji'rānah in the morning. When the sun declined he faced Baṭn Sarif and reached the way which leads to Medina ('*Awn al-Ma'būd*, II, 155).

1300. The Prophet (may peace be upon him) was detained at al-Ḥudaibiyyah by the unbelievers of Mecca. Hence he could not perform 'Umrah that year in 6 A.H. Next year in 7 A.H. he again came to Mecca for performing Umrah and remained there for three days.

1301. *Ṭawāf al-Ifāḍah* or *al-Ziyārah* is a nessesential part of Ḥajj. It has been commanded in the Qur'ānic verse (xii. 29). Hence if a pilgrim does not perform it, his Ḥajj will not be valid

obligatory circumambulation (*Ṭawāf al-Ziyārah*) on the day of sacrifice; he then offered the noon prayer at Minā when he returned.<sup>1302</sup>

(1994) Umm Salamah said: The night which the Apostle of Allah (may peace be upon him) passed with me was the one that followed the day of sacrifice. He came to me and Wahb b. Zam'ah also entered upon me. A man belonging to the lineage of Abū Umayyah accompanied him. Both of them were wearing shirts. The Apostle of Allah (may peace be upon him) said to Wahb: Did you perform the obligatory circumambulation (*Ṭawāf al-Ziyārah*), Abū 'Abd Allah? He said: No, by Allah, Apostle of Allah. He (the Prophet) said: Take off your shirt. He then took it off from his head, and his Companion too took his shirt off from his head. He then asked: And why (this), Apostle of Allah? He replied: On this day you have been allowed to take off *ihrām* when you have thrown the stones at the *jamrahs*, that is, everything prohibited during the state of *ihrām* is lawful except intercourse with woman. If the evening comes before you go round this House (the Ka'bah) you will remain in the sacred state (i.e. *ihrām*) just like the state in which you were before you threw stones at the *jamrahs* until you perform the circumambulation of it (i.e. the Ka'bah).<sup>1303</sup>

(1995) 'Ā'ishah and Ibn 'Abbās said: The Prophet (may peace be upon him) postponed the circumambulation on the day of sacrifice till the night.<sup>1304</sup>

(1996) Ibn 'Abbās said: The Prophet (may peace be upon him) did not walk

The time recommended for its performance is the 10th of Dhū al-Ḥijjah in the early hours after lapidation of the *jamrahs*, sacrifice and shaving. If one postpones it and performs it during the *tashriq* days, i.e. 11th, 12th and 13th of Dhū al-Ḥijjah, that will be valid. If one postpones even beyond this period, that too will be valid. But Abū Ḥanīfah and Mālik observe that if a pilgrim postpones it for a long time, he will have to offer a sacrifice for the delay.

1302. The traditions narrated by Jābir and 'Ā'ishah indicate that the Prophet (may peace be upon him) offered the noon prayer at Mecca and then he returned to Minā. But this tradition shows that he prayed the noon prayer at Minā. There is a difference of opinion amongst scholars. Some prefer this tradition recorded by Abū Dāwūd and others take the tradition of Jābir and 'Ā'ishah as more sound ('*Awn al-Ma'būd*, II, 156).

1303. This means that the permission of lawfulness of everything is conditional, viz. that you perform the obligatory circumambulation (*Ṭawāf al-Ziyārah*) after throwing stones at the last *jamrah* on the day of sacrifice before the evening. If you do not fulfil this condition, you cannot avail of this concession, though you throw stones, sacrifice and shave your heads. But you will remain in the same state of *ihrām* as you had been before throwing the stones. Therefore to avail of this concession it is necessary to perform the *Ṭawāf al-Ziyārah* on the 10th of Dhū al-Ḥijjah before evening ('*Awn al-Ma'būd*, II, 156).

1304. This means that the Prophet (may peace be upon him) allowed to perform the last circumambulation at night. The more sound traditions indicate that the Prophet (may peace be upon him) performed the last circumambulation (*Ṭawāf al-Ziyārah*) in daytime. This tradition is weak ('*Awn al-Ma'būd*, II, 157).

quickly (*raml*) in the seven rounds of the last circumambulation (*Tawāf al-Ifāḍah*).<sup>1305</sup>

### Chapter 651

#### DEPARTURE

(1997) Ibn 'Abbās said: The people used to go out (from Mecca after *Hajj*) by all sides. The Prophet (may peace be upon him) said: No one should leave (Mecca) until he performs the last circumambulation of the House (the Ka'bah).<sup>1306</sup>

### Chapter 652

#### A MENSTRUATING WOMAN MAY DEPART AFTER PERFORMING THE OBLIGATORY CIRCUMAMBULATION (*TAWĀF AL-IFĀḌAH*)

(1998) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) mentioned about Ṣaffīyah,<sup>1307</sup> daughter of Ḥuyayy. He was told that she had menstruated. The Apostle of Allah (may peace be upon him) said: She may probably detain us. They (the people) said: She has performed the obligatory circumambulation (*Tawāf al-Ziyārah*). He said: If so, there is no need (of staying any longer).<sup>1308</sup>

(1999) Al-Ḥārith b. 'Abd Allah b. Aws said: I came to 'Umar b. al-Khaṭṭāb and asked him about a woman who has performed the (obligatory) circumambulation on the day of sacrifice, and then she menstruates. He said: She must perform the last circumambulation of the House (the Ka'bah). Al-Ḥārith said: The Apostle of Allah (may peace be upon him) told me the same thing. 'Umar said: May your hands fall down! You asked me about a thing that you had asked the Apostle of

1305. The Prophet (may peace be upon him) might have walked quickly (*raml*) in the circumambulation which he performed just after his arrival at Mecca (*Tawāf Qudūm*)

1306. This circumambulation is other than the obligatory circumambulation (*Tawāf al-Ziyārah*). The circumambulation just before departure from Mecca at the end of the rites of *Hajj* is necessary (*wājib*) according to some scholars and recommended (*sunnah*) in the opinion of others. If a woman menstruates, she can leave it.

1307. Wife of the Prophet (may peace be upon him).

1308. The Prophet (may peace be upon him) thought that Ṣaffīyah did not perform the obligatory circumambulation. It was, therefore, necessary for her to wait till the end of menstruation and then to go round the Ka'bah. But he was informed that she menstruated after performing this circumambulation. He, therefore, permitted her to depart, as the circumambulation at the time of departure was not necessary.

Allah (may peace be upon him) so that I might oppose him.<sup>1309</sup>

### Chapter 653

#### THE CIRCUMAMBULATION AT THE TIME OF DEPARTURE (ṬAWĀF AL-WADĀ')

(2000) 'Ā'ishah (Allah be pleased with her) said : I put on *iḥrām* for 'Umrah at al-Tan'im<sup>1310</sup> and I entered (Mecca) and performed my 'Umrah as an atonement. The Apostle of Allah (may peace be upon him) waited for me at al-Abṭah<sup>1311</sup> till I finished it. He commanded the people to depart. The Apostle of Allah (may peace be upon him) came to the House (the Ka'bah), went round it and went out (i.e. left for Medina).<sup>1312</sup>

(2001) 'Ā'ishah said : I went out along with the Prophet (may peace be upon him) during his last march,<sup>1313</sup> and he alighted at al-Muḥaṣṣab,<sup>1314</sup> Abu Dāwūd said : Ibn Bashshār did not mention that she was sent to al-Tan'im in this tradition. She said : I then came to him in the morning. He announced to his companions for departure, and he himself departed. He passed the house (the Ka'bah) before the dawn prayer, and went round it when he proceeded. He then went away facing Medina.

(2002) 'Abd al-Raḥmān b. Ṭāriq reported on the authority of his mother : When the Apostle of Allah (may peace be upon him) passed any place from the house of Ya'lā,—the narrator 'Ubaid Allah forgot its name—he faced the House (the Ka'bah) and supplicated.<sup>1315</sup>

1309. This tradition of 'Umar has been abrogated by the tradition narrated by 'Ā'ishah in which the Prophet (may peace be upon him) permitted Ṣafīyyah to depart without performing the last circumambulation at the time of departure. The accepted view is that a menstruating woman can leave the last circumambulation (Ṭawāf al-Wadā') ('*Awn al-Ma'būd*, II, 158).

1310. A place near Mecca.

1311. A stony land between Mecca and Minā.

1312. This is called Ṭawāf al-Wadā' (circumambulation before departure). The last action of a pilgrim at Mecca just before his departure to his homeland should be the circumambulation of the Ka'bah. Some scholars take it as necessary, but the majority regard it as commendable. A menstruating woman is allowed to leave it.

1313. "Last march" (*al-naḥr al-ākhīr*) means his returning from Minā.

1314. The name of a place between Mecca and Minā. Stopping at al-Muḥaṣṣab is not a rite of Hajj. As the Prophet (may peace be upon him) stopped there, it is recommended to make a halt at this place.

1315. When the Prophet (may peace be upon him) proceeded from Mecca to Medina, he stopped at a place at the house of Ya'lā, and supplicated there. This is the place where prayer is answered by Allah. The narrator did not remember the name of that place.



## Chapter 654

## ALIGHTING AT AL-MUḤAṢṢAB

(2003) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) alighted at al-Muḥaṣṣab so that it might be easier for him to proceed (to Medina). It is not a *sunnah* (i.e. a rite of *Ḥajj*). Anyone who desires may alight there, and anyone who does not want may not alight.<sup>1316</sup>

(2004) Abū Rāfi' said: The Apostle of Allah (may peace be upon him) did not command me to alight there. But when I pitched his tent there, he alighted. The narrator Musaddad said: He (Abū Rāfi') kept watch over the luggage of the Prophet (may peace be upon him). The narrator 'Uthmān said: That is, in al-Abṭāḥ.

(2005) Usāmah b. Zaid said: I asked: Apostle of Allah, where will you encamp tomorrow? (This he asked on the occasion of his *Ḥajj*). He replied: Did 'Aqīl leave any house<sup>1317</sup> for us? He again said: We shall encamp in the valley (*Khaif*) of Banū Kinānah where the Quraish took an oath upon disbelief, that is, al-Muḥaṣṣab. The oath was that Banū Kinānah concluded a pact with the Quraish against Banū Hāshim; they would have no marital relations with them, nor would give them accommodation nor would have any commercial ties with them.<sup>1318</sup>

Al-Zuhri said: *Al-Khaif* means valley.

(2006) Abū Hurairah said: The Apostle of Allah (may peace be upon him) said when he intended to march from Minā: We shall encamp tomorrow. The narrator then narrated something similar (as in the previous tradition but he did not mention

1316. Al Muḥaṣṣab is the name of a valley opening on Abṭāḥ between Mecca and Minā. It is so called because of the pebbles in it.

It should be noted that the Prophet (may peace be upon him) stopped at this place for taking rest at noon, and he offered noon, afternoon, evening and night prayers there, and passed the night. But stopping here is not a part of the rites of *Ḥajj*. One may stop there in imitation of the action of the Prophet (may peace be upon him) (*'Awn al-Ma'būd* II, 158).

1317. 'Aqīl was the son of Abū Ṭālib and cousin of the Prophet (may peace be upon him). He and his brother inherited the property of Abū Ṭālib as they did not embrace Islam. 'Alī and Ja'far did not get any share from his property because they had migrated to Mecca and become Muslims. Hence the Prophet (may peace be upon him) asked about the house inherited by 'Aqīl at Mecca.

1318. Khaif Banū Kinānah is a valley where the Quraish concluded a pact against Banū Hāshim. They expelled the Prophet (may peace be upon him), his family and the clan of Banū Hāshim from Mecca to this valley and observed complete boycott with them. The boycott lasted for two or three years. Subsequently, the document of the pact that was hung at the Ka'bah was eaten away by white ants and the boycott came to an end. The Prophet (may peace be upon him) encamped in this valley as a token of thanksgiving to Allah for the supremacy of Islam and subjugation of disbelief (*'Awn al-Ma'būd*, II, 159).

the opening words, nor did he mention the words "*al-Khaif*<sup>1319</sup> *al-wādi*" (*Khaif* means valley).

(2007) Nāfi' said : Ibn 'Umar used to nap for a short while at al-Baṭḥā' (i.e. al-Muḥaṣṣab) and then enter Mecca. He thought that the Apostle of Allah (may peace be upon him) used to do so.

(2008) Ibn 'Umar said : The Prophet (may peace be upon him) offered noon, afternoon, evening and night prayers at al-Baṭḥā' (i.e. al-Muḥaṣṣab). He then napped for a short while and then entered Mecca. Ibn 'Umar also used to do so.

### Chapter 655

#### ON CHANGE IN THE ORDER OF THE RITES OF ḤAJJ

(2009) 'Abd Allah b. 'Amr b. al-Āṣ said : The Apostle of Allah (may peace be upon him) stopped during the Farewell Pilgrimage at Minā, as the people were to ask him (about the rites of Ḥajj). A man came and said : Apostle of Allah, being ignorant, I shaved before sacrificing. The Apostle of Allah (may peace be upon him) replied : Sacrifice, for no harm will come. Another man came and said : Apostle of Allah, being ignorant, I sacrificed before throwing the pebbles. He replied : Throw them, for no harm will come. He (the Prophet) was not asked about anything which had been done before or after its proper time without saying : Do it, for no harm will come.<sup>1320</sup>

(2010) Usāmah b. Sharīk said : I went out with the Prophet (may peace be upon him) to perform Ḥajj, and the people were coming to him. One would say : Apostle of Allah, I ran between al-Ṣafā' and al-Marwah before going round the Ka'bah, or I did something before its proper time, or did something after its proper time. He would reply : No harm will come, no harm will come,<sup>1321</sup> except to one who defames a Muslim acting wrongfully. That is the one who will be in trouble and will perish.<sup>1322</sup>

1319. The valley of Banū Kinānah was also known as al-Muhassab and al-Abṭāḥ.

1320. Al-Nawawī said : On the day of sacrifice four rites are to be observed in order : Throwing stones at *jamrahs*, sacrifice, shaving and the obligatory circumambulation (*Tāwaf al-Ifāḍah*). To maintain order between them is recommended (*sunnaḥ*). There is no harm if the order is changed inadvertently or deliberately. This tradition shows that one has not to pay any ransom for this omission ( *Awn al-Ma'būd*, II, 159-60).

1321. According to al-Shāfi'i and traditionists (*Aṣḥāb al-Ḥadīth*), there is no harm in the change of order between the rites on the day of sacrifice. A group of scholars maintain that in the case of changing the order one shall have to offer sacrifice. According to another group, if one changes the order inadvertently, there is no harm.

1322. This emphasises showing respect to a Muslim. The defamation of a Muslim is more serious than the change in the order of the rites of Ḥajj. The Muslims, especially the pilgrims, should pay respect to other Muslims, for there is a great rush while performing Ḥajj.

*Chapter 656*

## ON PRAYING AT MECCA

(2011) Kathīr b. Kathīr b. al-Muṭṭalib b. Abī Widad'ah reported from his people on the authority of his grandfather : He saw that the Prophet (may peace be upon him) was praying at the place adjacent to the gate of Banū Sahm and the people were passing before him, and there was no covering (*sutrah*) between them.<sup>1323</sup> The narrator Sufyān said : There was no covering between him and the Ka'bah. Sufyān said : Ibn Juraij reported to us stating that Kathīr reported on the authority of his father saying : I did not hear my father say, but I heard some of my people on the authority of my grandfather.

*Chapter 657*

## THE SACRED TERRITORY OF MECCA

(2012) Abū Hurairah said : When Allah, the Exalted, granted the conquest of Mecca to His Apostle, the Prophet (may peace be upon him), stood among them (the people), and praised Allah and extolled Him. He then said, Verily Allah stopped the Elephant from Mecca, and gave His Apostle and the believers sway upon it, and it has been made lawful for me only for one hour on one day ; then it will remain sacred till the Day of Resurrection. Its trees are not to be cut, its game is not to be molested, and the things dropped there are to be picked up only by one who publicly announces it. 'Abbās or al-'Abbās suggested : Apostle of Allah, except the rush (*idhkhir*) for it is useful for our graves and our houses. The Apostle of Allah (may peace be upon him) said : Except the rush.<sup>1324</sup> Abū Dāwūd said : Ibn al-Muṣaffā

1323. It is disputed amongst scholars whether there is any need of covering (*sutrah*) for a person praying at Mecca. A group maintains that one can pass in front of a man praying at Mecca ; there is no need of a covering due to necessity and crowd of the people. Some interpreted this tradition by saying that the people might be passing beyond the place of prostration, not within the prohibited limit. Some hold that this might have happened before prohibition. A group of scholars maintain that this is only a narrative that people were passing before him. It does not indicate the permission for passing in front of a man at prayer at Mecca. According to this group, one should use covering while praying at Mecca like other places. By this Chapter heading, Abū Dāwūd might have intended to show that there was no need of covering (*sutrah*) for a man praying at Mecca.

1324. It is not lawful within the sacred territory of Mecca (*Haram*) to cut the herbage, trees, thorns or anything else, except the rush permitted by the Prophet (may peace be upon him). Some scholars hold that it is permissible to cut the harmful thorns or the thorns eaten by the camel. It is also unlawful to kill or drive away or frighten any game there. Things dropped should not be pick-

added on the authority of al-Walīd : Abū Shāh, a man from the people of the Yemen, stood and said : Give me in writing, Apostle of Allah. The Apostle of Allah (may peace be upon him) said : Give in writing to Abū Shāh. I said to al-Awzā'ī : What does the statement mean : Give Abū Shāh in writing ? He said : This was an address which he heard from the Apostle of Allah (may peace be upon him).

(2013) The version of Ibn 'Abbās added : Its fresh herbage is not to be cut.

(2014) 'Ā'ishah (Allah be pleased with her) said : I said : Apostle of Allah, should we not build a house or a building which shades you from the sun ? He replied : No, it is a place for the one who reaches there earlier.<sup>1325</sup>

(2015) Ya'la b. Umayyah reported the Apostle of Allah (may peace be upon him) as saying : Hoarding<sup>1326</sup> up food (to sell it at a high price) in the sacred territory is a deviation (from right to wrong).

### Chapter 658

#### PUBLIC SUPPLY OF *NABĪDH*<sup>1327</sup>

#### DURING *ḤAJJ*

(2016) Bakr b. 'Abd Allah said : A man said to Ibn 'Abbās : What about the people of this house ?<sup>1328</sup> They supply *nabīdh* to the public while their cousins provide milk, honey and mush (*sawiq*). Is this due to their niggardliness or need ? Ibn 'Abbās replied : This is due neither to our niggardliness nor to our need, but the Apostle of Allah (may peace be upon him) (once) entered upon us on his riding beast, and Usāmah b. Zaid was sitting behind him. The Apostle of Allah (may peace be upon him) called for drink. *Nabīdh* was brought to him and he drank from it, and gave its left-over to Usāmah b. Zaid who drank from it. The Apostle of Allah (may peace be upon him) then said : You have done a good and handsome deed, and do it in a similar way. It is due to this that we are doing so ; we do not want to change what the

ed up. Only those persons who make public announcements and give those things to their owners are allowed to pick them up.

1325. The Prophet (may peace be upon him) did not allow to construct any building at Minā for all these places are meant for *Ḥajj* for all the Muslims. They do not belong to anyone. Had the Prophet (may peace be upon him) set an example of constructing a building there, there would have been a large number of buildings of individual Muslims. This would leave no room for the performance of the rites of *Ḥajj*.

1326. Hoarding up food to sell it at a high price is strictly forbidden everywhere by Islam. Its particular prohibition in the sacred territory of Mecca is due to scarcity of food at Mecca. Hence the emphasis.

1327. A kind of light drink made of raisins or dates used in Arabia.

1328. Meaning the house of 'Abbās.

Apostle of Allah (may peace be upon him) had said.<sup>1329</sup>

### Chapter 659

#### STAYING AT MECCA

(2017) 'Umar b. 'Abd al-'Aziz asked al-Sā'ib b. Yazid : Did you hear anything relating to staying at Mecca (after the completion of the rites of *Hajj*)? He said : Ibn al-Ḥaḍramī told me that he heard the Apostle of Allah (may peace be upon him) say : The *Muhājirūn* (Immigrants) are allowed to stay at the Ka'bah (Mecca) for three days after the obligatory circumambulation (*Tawāf al-Ziyārah* or *Ṣadr*).<sup>1330</sup>

### Chapter 660

#### TO OFFER PRAYER INSIDE THE KA'BAH

(2018) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) entered the Ka'bah, and along with him entered Usāmah b. Zaid, 'Uthmān b. Ṭalḥah al-Ḥajabī and Bilāl. He then closed the door and stayed there. 'Abd Allah b. 'Umar said : I asked Bilāl when he came out : What did the Apostle of Allah (may peace be upon him) do (there) ? He replied : He stood with a pillar on his left, two pillars on his right, and three pillars behind him. At that time the House (the Ka'bah) stood on six pillars. He then prayed.<sup>1331</sup>

(2019) The aforesaid tradition has also been transmitted by Mālik through a different chain of narrators. He ('Abd al-Raḥmān b. Maḥdī) did not mention the words "pillars". This version adds : He then prayed and there was a distance of three cubits between him and the *qiblah*.

(2020) This tradition has also been transmitted by Ibn 'Umar through a different chain of narrators like the one narrated by al-Qa'nabī. This version has : I forgot to ask the number of *rak'ahs* he offered.

1329. Ibn 'Abbās followed the tradition of the Prophet (may peace be upon him). They supplied *nabīyah* to the pilgrims on the occasion of *Hajj* following the *sunnah* of the Prophet (may peace be upon him).

1330. The *Muhājirūn* had already migrated from Mecca for the sake of Allah. The Prophet (may peace be upon him), therefore, allowed them to stay for three days, and not more, at Mecca after the completion of the rites of *Hajj* for their needs.

1331. There is a difference of opinion amongst scholars about the offering of prayer inside the Ka'bah. Al-Shāfi'ī, al-Thawri, Abū Ḥanīfah, Aḥmad and the majority of scholars hold that both the obligatory and the supererogatory prayers are valid inside the Ka'bah. According to Mālik, only supererogatory prayer is valid. The obligatory prayer, the *witr* prayer, the two *rak'ahs* (*sunan*) of the dawn prayer, and the two *rak'ahs* offered at the end of circumambulation are not valid. The majority of scholars argue from the tradition of Bilāl ('*Awā al-Ma'bad*, II, 162-63).



(2021) 'Abd al-Raḥmān b. Ṣafwān said: I asked 'Umar b. al-Khaṭṭāb: How did the Apostle of Allah (may peace be upon him) do when he entered the Ka'bah? He said: He offered two *rak'ahs* of prayer.<sup>1332</sup>

(2022) 'Abbās said: When the Prophet (may peace be upon him) came to Mecca, he refused to enter the House (the Ka'bah) for there were idols in it. He ordered to take them out, and they were taken out. The statues of Abraham and Ismā'il were taken out, and they had arrows in their hands. Apostle of Allah (may peace be upon him) said: May Allah destroy them! By Allah, they knew that they never cast lots by arrows.<sup>1333</sup> He then entered the house (the Ka'bah), and uttered the *takbīr* (Allah is most great) in all its sides and corners. He then came out and did not pray.<sup>1334</sup>

### Chapter 661

#### TO OFFER PRAYER IN AL-ḤIJR AL-ḤAṬĪM

(2023) 'Ā'ishah said: I liked to enter the House (the Ka'bah) and pray therein. The Apostle of Allah (may peace be upon him) caught me by hand and admitted me to al-Ḥijr.<sup>1335</sup> He then said: Pray in al-Ḥijr when you intend to enter the House (the Ka'bah), for it is a part of the House (the Ka'bah). Your people shortened it when they built the Ka'bah, and they took it out of the House.

### Chapter 662

#### ENTERING THE KA'BAH

(2024) 'Ā'ishah said: The Prophet (may peace be upon him) went out from me while he was happy, but he returned to me while he was sad. He said: I entered the Ka'bah, I know beforehand about my affair what I have come to know later I would not have entered it. I am afraid I have put my community to hardship.

(2025) Al-Aslamīyyah said: I said to 'Uthmān (b. Ṭalḥah al-Ḥajabī): What did the Apostle of Allah (may peace be upon him) say to you when he called you? He

1332 According to al-Nawawī, the chain of this tradition is weak.

1333. In pre-Islamic days the Arabs used to cast lots by arrows. The words "do it" were written on one arrow, and "do not do it" on the second, and "nothing" on the third. If anyone wanted to do a work, he cast the lot and acted according to the indication. This was started by 'Amr b. Luhayy and not by Abraham and Ismā'il.

1334 The tradition narrated by Bilāl which indicates that the Prophet (may peace be upon him) had prayed inside the Ka'bah is more sound than all other traditions.

1335. Al-Ḥijr is generally known as al-Ḥaṭīm. This is a part of the Ka'bah, but the Quraish did not include it in the Ka'bah. 'Abd Allah b. al-Zubair during his caliphate included it, but al-Ḥajjāj again excluded it. Hence it should be noted that to pray in al-Ḥaṭīm is just like praying inside the Ka'bah for it is a part of it.

said : (The Prophet said :) I forgot to order you to cover the two horns<sup>1336</sup> (of the lamb), for it is not advisable that there should be anything in the House (the Ka'bah) which diverts the attention of the man at prayer.

Ibn al-Sarḥ said : The name of my maternal uncle is Musāfi' b. Shaibah.

### Chapter 663

#### ON THE PROPERTY OF THE KA'BAH

(2026) Shaibah b. 'Uthmān said : 'Umar b. al-Khaṭṭāb was sitting in the place where you are sitting. He said : I shall not go out until I distribute the property of the Ka'bah. I said : You will not do it. He asked : Why? I said : For the Apostle of Allah (may peace be upon him) and Abū Bakr had seen its place, and they were more in need of the property than you, but they did not take it out. He ('Umar) stood up and went out.<sup>1337</sup>

(2027) Al-Zubair said : When we came along with the Apostle of Allah (may peace be upon him) from Liyyah<sup>1338</sup> and we were beside the lote tree, the Apostle of Allah (may peace be upon him) stopped at the end of al-Qarn al-Aswad<sup>1339</sup> opposite to it. He then looked at Nakhb<sup>1340</sup> or at its valley. He stopped and all the people stopped. He then said : The game of Wajj<sup>1341</sup> and its thorny trees are unlawful made unlawful for Allah. This<sup>1342</sup> was before he alighted at al-Ṭā'if and its fortress for Thaqlf.<sup>1343</sup>

1336 This lamb was brought from the heaven to be sacrificed in lieu of Ismā'il. The horns were left there after sacrifice.

This shows that one should not keep anything which diverts the attention of the worshipper.

1337. This property was a treasure-trove buried in the Ka'bah. The people in the pre-Islamic days used to offer presents and oblations to the Ka'bah. This property was buried by the Arabs in the precincts of the Ka'bah. 'Umar during his caliphate wanted to distribute it among the indigents. But he changed his opinion when he was told that the Prophet (may peace be upon him) and Abū Bakr had not done so. The Prophet (may peace be upon him) is reported to have said about this treasure to 'Ā'ishah. Had your people not been new converts, I would have spent the treasure of the Ka'bah in the path of Allah (*'Awn al-Ma'būd*, II, 164).

1338. The name of a mountain near al-Ṭā'if.

1339. The name of a small mountain in the Ḥijāz near al-Ṭā'if.

1340. The name of a valley in al-Ṭā'if.

1341. The name of a valley in al-Ṭā'if.

1342. This refers to the unlawfulness of the game and the thorny trees of Wajj. This prohibition might have been for a limited period and then abrogated.

1343. The battle of al-Ṭā'if took place in Shawwāl 9 A.H. The Prophet (may peace be upon him) encamped near the fortress of al-Ṭā'if and blockaded al-Thaqlf for eighteen days. Al-Khaṭṭābī said : There seems no reason for the unlawfulness of the game and the trees of the valley of Wajj except that it might have been a protected land (*ḥimā'*) for the pasturing of animals. This

## Chapter 664

## ON VISITING MEDINA

(2028) Abū Hurairah reported the Prophet (may peace be upon him) as saying: Journey should not be made (to visit any mosque) except towards three mosques: The sacred mosque (of Mecca), this mosque of mine, and al-Aqṣā mosque (at Jerusalem).<sup>1344</sup>

## Chapter 665

## THE SACRED TERRITORY OF MEDINA

(2029) 'Alī said: We wrote down nothing on the authority of the Apostle of Allah (may peace be upon him) but the Qur'ān and what this document contains.<sup>1345</sup> He reported the Apostle of Allah (may peace be upon him) as saying: Medina is sacred from 'Ā'ir to Thawr,<sup>1346</sup> so if anyone produces an innovation (in it), or gives protection to an innovator, the curse of Allah, angels, and all men will fall upon him, and no repentance or ransom will be accepted from him. The protection granted by Muslims is one, (even if) the humblest of them grants it. So if anyone breaks covenant made by a Muslim, the curse of Allah, angels, and all men will fall upon him, and no repentance or ransom will be accepted from him.<sup>1347</sup> If anyone

ban might have remained for a certain period and then lifted. According to the majority of scholars, there are no sacred territories except in Mecca and Medina. Al-Shāfi'ī holds that *Wajj* is also a sacred territory and the cutting of its trees and hunting its game are unlawful.

The unlawfulness of game and trees of *Wajj* before the battle of al-Ṭā'if is also doubtful. Muḥammad b. Ishāq has stated in his *Maḡāzī* that after the battle of al-Ṭā'if a deputation of Thaqīf came to the Prophet (may peace be upon him). He wrote a document for those who embraced Islam. This document indicates that he made the game and trees of *Wajj* unlawful (*'Awn al-Ma'būd*, II, 165).

1344. This shows that one should not make a journey to other sacred places except these three mosques. These are the major indications of Allah and other sacred places cannot be compared with them. This question is, however, disputed amongst scholars. Some scholars hold it permissible to visit other sacred places too. This tradition obviously contradicts their standpoint.

1345. This document contained some important injunctions and the rules about blood-money. 'Alī kept it in the sheath of his sword.

1346. 'Ā'ir is the name of a mountain at Medina. Thawr is also a small mountain at Medina. As it is not well known, it is often confused with the one at Mecca (*'Awn al-Ma'būd*, II, 166-67).

1347. This shows the significance of the protection granted by a Muslim, or a covenant made by him. This should be repeated by all Muslims even if it is granted by the humblest Muslim. The Muslims should keep their word and should not break it if it is given by any member of their community.

attributes his manumission<sup>1348</sup> to people without the permission of his masters, the curse of Allah, angels and all men will fall upon him and no repentance or ransom will be accepted from him.

(2030) 'Ali (Allah be pleased with him) reported the Prophet (may peace be upon him) as saying: Its (Medina's) fresh grass is not to be cut, its game is not to be driven away, and things dropped in it are to be picked up by one who publicly announces it, and it is not permissible for any man to carry weapons in it for fighting, and it is not advisable that its trees are cut except what a man cuts for the fodder of his camel.<sup>1349</sup>

(2031) 'Adī b. Zaid said: The Apostle of Allah (may peace be upon him) declared Medina a protected land a mail-post (three miles) from each side. Its trees are not to be beaten off or to be cut, except what is taken for the camel.<sup>1350</sup>

(2032) Sulaimān b. Abī 'Abd Allah said: I saw Sa'd b. Abī Waqqāṣ seized a man hunting in the sacred territory of Medina which the Apostle of Allah (may peace be upon him) had declared to be sacred. He took away his clothes from him. His patrons came to him and spoke to him about it, but he replied: The Apostle of Allah (may peace be upon him) declared this territory to be sacred, saying: If anyone catches someone hunting in it he should take away from him his clothes. So I shall not return to you a provision which the Apostle of Allah (may peace be upon him) has given me, but if you wish I shall pay you its price.<sup>1351</sup>

1348. This refers to a slave who has been set free by his master but the slave attributes his freedom to some other person to give him the rights of inheritance. The Prophet (may peace be upon him) prohibited such an attribution. A slave must attribute his freedom to his master and not to anyone else ('*Awn al-Ma'būd*, II, 167).

1349. This is an addition to the previous tradition, N. 2029. In this tradition the injunctions for the sacred territory of Medina have been mentioned. The rules of the sacred territory of Medina are the same as for that of Mecca.

It should be noted that Abū Hanīfah does not legally recognise the sacred territory of Medina like that of Mecca. He thinks that the traditions about the sacred territory of Medina are designed to pay respect to it, and not to observe the rules of the sacred territory of Mecca. Hence in his opinion the rules of *Haram* of Mecca will not apply to the *Haram* of Medina. But Mālik, al-Shāfi'i, Aḥmad and the majority of scholars hold that Medina has a sacred territory like Mecca and the same rules will be observed for Medina ('*Awn al-Ma'būd*, II, 168).

1350. This shows the dimensions of the sacred territory of Medina. The area is twelve miles, three miles from each side.

1351. It is disputed amongst scholars whether the clothes of a person who hunts in the sacred territory of Medina should be taken away. Al-Shāfi'i in his earlier statement and Aḥmad are reported to have held this view. There is also a difference of opinion about the ownership of such clothes. Another group maintains that the clothes should be given to the poor of Medina. A third group holds the view that the clothes should be deposited in the public treasury (*Bait al-Māl*) ('*Awn al-Ma'būd*, II, 168).

(2033) A client of Sa'd said : Sa'd found some slaves from the slaves of Medina cutting the trees of Medina. So he took away their property, and said to their patrons : I heard the Apostle of Allah (may peace be upon him) prohibiting to cut any tree of Medina. He said : If anyone cuts any of them, what is taken from him will belong to the one who seizes him.

(2034) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying : The leaves should not be beaten off and the trees should not be cut in the protected land of the Apostle of Allah (may peace be upon him), but the leaves can be beaten off softly.<sup>1352</sup>

(2035) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) used to visit Qubā'<sup>1353</sup> on foot and riding. Ibn Numair added : "and he used to offer two *rak'ahs* of prayer"

### Chapter 666

#### VISITING GRAVES

(2036) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : If any one of you greets me, Allah returns my soul to me and I respond to the greeting.<sup>1354</sup>

(2037) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Do not make your houses graves,<sup>1355</sup> and do not make my grave a place of

1352. This refers to the sacred territory of Medina. The Prophet (may peace be upon him) allowed to beat off the leaves gently for necessity.

1353. The name of a place near Medina.

1354. The pilgrims after finishing the rites of *Hajj* go to Medina and visit the tomb of the Prophet (may peace be upon him). When they stand near his grave, they salute him, and the Prophet (may peace be upon him) returns the salutation. Allah has appointed angels for conveying greetings to the Prophet (may peace be upon him) from those who remain away from his grave.

The returning of soul to the Prophet (may peace be upon him) in his grave for returning the salutation has been explained by commentators in many ways. What seems to be sound is that Allah bestows on him the power of speech to respond to the salutation.

The question of the life of the prophets in their graves is also disputed amongst scholars. Their life in graves has been interpreted in several ways. It seems that the life granted to them after their death is not like the life in this world. That is something different, not intelligible to ordinary persons.

1355. This means that one should also pray at home and recite the Qur'an and remember Allah there. If a man never prays at home and does not worship Allah there, the house becomes like a grave where no prayer is offered. Or this means that one should not bury the dead bodies in one's home.



festivity.<sup>1356</sup> But invoke blessings on me, for your blessings reach me wherever you may be.<sup>1357</sup>

(2038) Rabī'ah b. al-Hudair said : I did not hear Ṭalḥah b. 'Ubaid Allah narrating any tradition from the Apostle of Allah (may peace be upon him) except one tradition. I (Rabī'ah b. Abī 'Abd al-Raḥmān) asked : What is that ? He said : We went out along with the Apostle of Allah (may peace be upon him) who was going to visit the graves of the martyrs. When we ascended Ḥarrah<sup>1358</sup> Wāqīm, and then descended from it, we found there some graves at the turning of the valley. We asked : Apostle of Allah, are these the graves of our brethren ? He replied : Graves of our companions. When we came to the graves of martyrs, he said : These are the graves of our brethren.<sup>1359</sup>

(2039) Nāfi' reported on the authority of 'Abd Allah b. 'Umar : The Apostle of Allah (may peace be upon him) made his camel kneel down at al-Baṭḥā'<sup>1360</sup> which lies in Dhū al-Ḥulaifah, and prayed there. 'Abd Allah b. 'Umar too used to do so.

(2040) Mālik said : One should not exceed al-Mu'arras<sup>1361</sup> when one returns to Medina until one prays there as much as one wishes, for I have been informed that the Apostle of Allah (may peace be upon him) halted there at night.

Abū Dāwūd said : I heard Muḥammad b. Ishāq al-Madīnī say : Al-Mu'arras lies at a distance of six miles from Medina.

1356. The Arabic word 'id has been explained in a twofold way. First, it means the repeated visit to the tomb of the Prophet (may peace be upon him). One should not visit the grave of the Prophet (may peace be upon him) unnecessarily again and again. It is disputed whether one can make a journey specially for the visit to the grave of the Prophet (may peace be upon him). Ibn 'Ainīyyah and traditionists are of view that one should not make a journey with the intention of visiting his grave. The other scholars hold it permissible to make a journey to visit his tomb.

The other meaning of 'id is that the people should not hold festivals and celebrations at the tomb of the Prophet (may peace be upon him). This also indicates that the anniversaries of the saints held annually at their graves like fairs and festivals are forbidden. Muslims are not allowed to celebrate anniversaries at the graves ('*Awn al-Ma'būd*, II, 171-72).

1357. This means that instead of visiting the grave of the Prophet (may peace be upon him) again and again, one should invoke blessings on him from one's residence.

1358. Ḥarrah means stony land. Wāqīm means a small castle. There were some graves of martyrs on a rocky hill which had some castles too in Medina. The Prophet (may peace be upon him) went to visit these graves.

1359. He called the martyrs brethren, and those who were not martyrs only companions. This shows the excellence of martyrdom.

1360. Any sandy and vast land.

1361. *Taḥriq* means to halt at some place towards the end of night for taking rest. While returning from Mecca, the Prophet (may peace be upon him) took rest for a while at the end of the night at al-Baṭḥā' Hence it is commendable to stop there and pray. But it is not a rite of *Hajj*

## V. KITĀB AL-NIKĀH

### [ BOOK OF MARRIAGE ]

#### *Chapter 667*

#### EXHORTATION<sup>1362</sup> TO MARRIAGE

(2041) 'Alqamah said: I was going with 'Abd Allah b. Mas'ūd at Minā where 'Uthmān met him and desired to have a talk with him in privacy. When 'Abd Allah (b. Mas'ūd) thought there was no need of privacy, he said to me: Come, 'Alqamah. So I came (to him). Then 'Uthmān said to him: Should we not marry you, Abū 'Abd al-Raḥmān, to a virgin girl, so that the power you have lost may return to you? 'Abd Allah (b. Mas'ūd) said: If you say that, I heard the Apostle of Allah (may peace be upon him) say: Those of you who can support a wife<sup>1363</sup> should marry, for it keeps you from looking at strange women, and preserves from unlawful intercourse; but those who cannot should devote themselves to fasting, for it is a means of suppressing sexual desire.

#### *Chapter 668*

#### MARRYING A RELIGIOUS WOMAN IS PREFERABLE

(2042) Abū Hurairah reported the Prophet (may peace be upon him) as saying:

1362. Islam aims at building a healthy moral society. It wants the Muslims, men and women, to lead a respectable married life. The sex urge is natural in men and women. If it is not properly kept controlled it may play havoc and damage socio-moral health of the individual and society. Islam teaches moderation in every walk of life and never encourages extremes in any of its facets. It never recognises celibacy among Muslims. It is a natural religion and prescribes the natural course to make sex urge most profitable in life. The Qur'ān demands the authorities in a Muslim society to marry single persons (xxiv. 32) and counts the wife a portent of Allah (xxx. 21). For those who avoid marriage for fear of their limited means are encouraged by Allah with a promise to provide them with sustenance (xxiv. 32). Islam stresses the responsibility of parenthood for a healthy society. Hence, it is opposed to celibacy.

1363. The Arabic word *ba'ah* means to bear the maintenance of wife, and to have the power of intercourse. If a man can support wife and has sex urge, he must marry. In case he cannot support his wife, he should keep fasts to suppress the urge. It is in fact the responsibility of the State to marry those bachelors and virgins who have sex urge but cannot manage to marry for their limited means.

Women may be married for four reasons: for her property, her rank, her beauty and her religiosity. So get the one who is religious,<sup>1364</sup> and prosper<sup>1365</sup> (lit. may your hands cleave to the dust).

### Chapter 669

#### ON MARRYING VIRGINS

(2043) Jābir b. 'Abd Allah said: The Apostle of Allah (may peace be upon him) said to me: Did you marry? I said: Yes. He again said: Virgin or non-virgin (woman previously married)? I said: Non-virgin. He said: Why (did you) not (marry) a virgin with whom you could sport and who could sport with you.<sup>1366</sup>

(2044) Ibn 'Abbās said: A man came to the Prophet (may peace be upon him), and said: My wife does not prevent the hand of a man who touches her.<sup>1367</sup> He said: Divorce her. He then said: I am afraid my inner self may covet her. He said: Then enjoy her.<sup>1368</sup>

### Chapter 670

#### PROHIBITION OF MARRYING WOMEN WHO DO NOT GIVE BIRTH TO CHILDREN

(2045) Ma'qil b. Yasār said: A man came to the Prophet (may peace be upon him) and said: I have found a woman of rank and beauty, but she does not give birth to children. Should I marry her? He said: No. He came again to him, but he prohibited him. He came to him third time, and he (the Prophet) said: Marry

1364. The motives for marrying a woman may be four as mentioned in this tradition. The Prophet (may peace be upon him) exhorted the Muslims to prefer the religiosity of a woman, for with this quality she will obey the commands of Allah and obey her husband too. There will be mutual cooperation between them. In the absence of this trait a woman may damage the family life of a man. If a woman is religious and has other qualities too, that is far better.

1365. *Taribat yaddāha* literally means "may your hands cleave to the dust". It is used to exhort one to action.

1366. It is natural that a woman who has already been married has not so much love, compassion and inclination towards the husband as a virgin has. Hence the Prophet (may peace be upon him) exhorted to marry a virgin as far as possible.

1367. This has been interpreted in a twofold way: first, she does not prevent people from enjoyment with her; second, she is too much generous and spends the property of her husband carelessly.

1368. The Prophet (may peace be upon him) allowed him to keep his wife with him for fear of falling into sin.

women who are loving and very prolific, for I shall outnumber the peoples by you.<sup>1369</sup>

### Chapter 671

#### THE PRONOUNCEMENT OF ALLAH: "THE ADULTERER SHALL NOT MARRY SAVE AN ADULTERESS" (xxiv. 3)

(2046) 'Amr b. Shu'aib, on his father's authority told that his grandfather reported: Marthad b. Abi Marthad al-Ghanawī used to take prisoners (of war) from Mecca (to Medina). At Mecca there was a prostitute called 'Ināq who had illicit relations with him. (Marthad said :) I came to the Prophet (may peace be upon him) and said to him: May I marry 'Ināq, Apostle of Allah? The narrator said: He kept silence towards me. Then the verse was revealed: "... and the adulteress none shall marry save an adulterer or an idolater."<sup>1370</sup> He called me and recited this (verse) to me, and said: Do not marry her.<sup>1371</sup>

(2047) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: The adulterer who has been flogged shall not marry save the one like him.<sup>1372</sup>

Abū Ma'mar said: Ḥabīb al-Mu'allim narrated (this tradition) to us on the authority of 'Amr b. Shu'aib.<sup>1373</sup>

1369. The Prophet (may peace be upon him) exhorted Muslims to marry women who are loving and prolific so that the number of the members of the community may increase. If a woman is loving, the family life of a man will be healthy and peaceful. If she is prolific, the man power of the Muslim community will swell, and the Prophet (may peace be upon him) himself will be proud on the Day of Judgment.

1370. Qur'ān, xxiv. 3.

1371. Chaste Muslims, men and women, have been prohibited to marry such men and women as are accustomed to adultery. It is allowed to marry them if they repent. Most scholars are of opinion that if a Muslim commits adultery with a Muslim woman, he should marry her.

There are five interpretations of the verse quoted in this tradition: (1) This verse has been abrogated by verse xxiv. 32 which demands the Muslims to marry single persons. This includes the adulteress. This is the opinion of Sa'id b. al-Musayyab, and al-Shāfi'i. (2) The word *nikāḥ* in this verse means intercourse. This means that no one will cooperate with an adulterer and share with him in the unlawful action except an adulteress or a woman who is a polytheist. The believers who obey the commands of Allah have been forbidden to do so. (3) An adulterer who has been flogged marries an adulteress who has also been flogged, and *vice versa*. (4) This verse was revealed about women whom the people married on condition that they (the women) will spend on them the income earned by prostitution. (5) Chaste men and women have been prohibited to marry an adulterer and adulteress in general ('*Awn al-Ma'būd*, II, 176).

1372. This tradition shows that an adulterer who has been punished by flogging generally takes interest in marrying an adulteress like him. It is not a command but a fact. A corrupt man is inclined towards a corrupt woman.

1373. This means that the narrator Ḥabīb used the word *haddathana* in his version.

## Chapter 672

ON A PERSON WHO SETS HIS SLAVE-GIRL FREE,  
THEN MARRIES HER

(2048) Abū Dāwūd reported the Apostle of Allah (may peace be upon him) as saying : Anyone who sets his slave-girl free, and then marries her, will have a double reward.<sup>1374</sup>

(2049) Anas b. Mālik said : The Prophet (may peace be upon him) manumitted Šafīyyah and made her manumission her dower.<sup>1375</sup>

## Chapter 673

WHAT IS UNLAWFUL BY REASON OF CONSANGUINITY  
IS UNLAWFUL BY REASON OF FOSTERAGE

(2050) 'Ā'ishah, wife of the Prophet (may peace be upon him), reported the Prophet (may peace be upon him) as saying : What is unlawful by reason of consanguinity is unlawful by reason of fosterage.<sup>1376</sup>

(2051) Umm Salamah reported : Umm Ḥabībah said : Are you interested in my sister, Apostle of Allah ? He said : What should I do ? She said : You may marry her. He said : Your sister ? She said : Yes. He said : Do you like that ? She said : I am not alone with you. Of those who share me in this good, my sister is most to my liking. He said : She is not lawful for me. She said : By Allah, I was told that you were going to betroth Darrah or Dhurrah, the narrator Zuhair doubted, the daughter of Abū Salamah. He said : The daughter of Umm Salamah ? She said : Yes. He said : (She is my step-daughter.) Even if she had not been my step-daughter under my protection, she would not have been lawful for me. She is my foster niece (daughter of my brother by fosterage). Thuwaibah suckled me as well as his father (Abū Salamah). So do not present to me your daughters and your sisters.

1374. He will get one reward for her manumission and the other for marrying her.

1375. This shows that marriage is valid if manumission is reckoned as dower. Scholars have difference of opinion on this question. Some hold that there is no dower except her freedom. Al-Shāfi'i maintains that she will have the option at the time of her freedom. If she refuses to marry him, he should give her price. Another group of scholars hold the view that perhaps this is the statement of Anas that the Prophet (may peace be upon him) had done so. He might have meant that this is valid in case one does not fix the dower (*'Awn al-Ma'būd*, II, 177).

1376. This means that foster-mother and her daughter are unlawful for her foster-son like his real mother and sister. But this unlawfulness does not apply to the parents of the foster-son and his ascendants, i.e. his father, mother, brother, sister. His father can marry the foster-mother (*'Awn al-Ma'būd*, II, 178).



## Chapter 674

## FOSTERAGE ON THE PART OF FATHER

(2052) 'Ā'ishah said : Aflaḥ<sup>1377</sup> b. Abī al-Qu'ais entered upon me. I hid myself from him. He said : You are hiding yourself from me while I am your paternal uncle. She said : I said : From where ? He said : The wife of my brother suckled you. She said : The woman suckled me and not the man. Thereafter the Apostle of Allah (may peace be upon him) entered upon me and I told him this matter. He said : He is your paternal uncle ; he may enter upon you.<sup>1378</sup>

## Chapter 675

## SUCKING BY A MAN OF AGE

(2053) 'Ā'ishah said that the Apostle of Allah (may peace be upon him) visited her when a man was with her. The narrator Ḥafṣ said : This grieved him and he frowned. The agreed version then goes : She said : He is my foster-brother, Apostle of Allah. He said : Consider, who are your brethren, for fosterage is consequent on hunger.<sup>1379</sup>

(2054) 'Abd Allah b. Mas'ūd said : Fosterage is not valid except by what streng-

1377. The *kunya* of Aflaḥ is Abū al-Ja'd. The traditionists are of opinion that her uncle by fosterage was Aflaḥ brother of Abū al-Qu'ais as narrated by Muslim in his *Ṣaḥīḥ*. Aflaḥ b. Abī al-Qu'ais is not correct.

1378. 'Ā'ishah thought that fosterage was valid only on the part of mother and not father. Hence she veiled herself from Aflaḥ. The Prophet (may peace be upon him) clarified that fosterage was also valid on the part of father. The suckling becomes his child, and his real children are his brethren by fosterage, his brethren are his uncles, and his sisters are his aunts. This is the opinion held by majority of the Companions, successors and the jurists. Abū Ḥanīfah, Mālik, al-Shāfi'ī, Aḥmad, Ishāq, al-Awzā'ī, Ibn Juraij and Abū Thawr hold this opinion. But Ibn 'Umar, Ibn al-Zubair, Rāfi' b. Khadij, 'Ā'ishah, a group of the successors Ibn al-Mundhir and Dāwūd al-Zāhiri are opposed to this view. According to them, fosterage is valid only on the part of mother and not father, because mother suckles him ('*Awn al-Ma'būd*, II, 179-80).

1379. Fosterage applies only to infants during a limited period and not after that. When they are able to take solid food, fosterage is not valid during that age. The period of suckling is disputed amongst scholars. A group maintains that it is two years. If a child sucks after two years of his age, fosterage will not be applied to him. This is the view held by Sufyān al-Thawrī, al-Auzā'ī, al-Shāfi'ī, Aḥmad and Ishāq. They agree on the basis of the Qur'ānic verse ii. 233. According to Abū Ḥanīfah, it is two years and six months. Zufar b. al-Hudhail takes it to be three years. According to Mālik, it is two years. If it exceeds a little, the excess will be counted in two years in his opinion ('*Awn al-Ma'būd*, II, 180).

thens love and grows flesh.<sup>1310</sup> Abū Mūsā said : Do not ask us so long as this learned man is among us.

(2055) The aforesaid tradition has also been narrated by Ibn Mas'ūd through a different chain of narrators to the same effect from the Prophet (may peace be upon him). This version has the words *anshaz al-'azma*, meaning which nourishes bones and makes them sturdy and vigorous.

### Chapter 676

#### UNLAWFULNESS OF A MAN OF AGE BY REASON OF FOSTERAGE

(2056) 'Ā'ishah, wife of the Prophet (may peace be upon him), and Umm Salamah said : Abū Ḥudhaifah b. 'Utbah b. Rabī'ah b. 'Abd Shams adopted Sālim as his son and married him to his niece Hind, daughter of al-Walīd b. 'Utbah b. Rabī'ah. He (Sālim) was the freed slave of a woman from the *Anṣār* (the Helpers), as the Apostle of Allah (may peace be upon him) adopted Zaid as his son. In pre-Islamic days when anyone adopted a man as his son, the people called him by his name and he was given a share from his inheritance. Allah, the Exalted, revealed about this matter ! "Call them by (the name of) their fathers, that is juster in the sight of Allah. And if ye know not their fathers, then (they are) your brethren in the faith, and your clients."<sup>1381</sup> They were then called by the names of their fathers. A man whose father was not known, remained under the protection of someone and considered brother in<sup>1382</sup> faith. Sahlah, daughter of Suhail b. 'Amr al-Quraishī, then came and said : Apostle of Allah, we used to consider Sālim (our) son. He dwelt with me and with Abū Ḥudhaifah in the same house, and he saw me in my short clothes, But Allah the Exalted, has revealed about them what you know, then what is your opinion about him ? The Prophet (may peace be upon him) said : Give him your breast-feed. She gave him five breast-feeds. He then became like her foster-son. Hence 'Ā'ishah (may Allah be pleased with her) used to ask the daughters of her sisters and the daughters of her brethren to give him breast-feed five times whom 'Ā'ishah wanted to see and who wanted to visit her, though he

1380. This shows that fosterage applies only to infancy and not when the child begins to take solid food. This refers to the limitation of the period of suckling. The infant is nourished by the milk of its mother, and the growth of its body mainly depends on milk. Hence the Qur'ān prescribed two years for fosterage.

1381. Qur'ān, xxxiii. 5.

1382. Zaid b. Ḥārithah was adopted son of the Prophet (may peace be upon him). He was considered his son by the people. But when the Qur'ānic verses were revealed he was called by the name of his father. The Prophet (may peace be upon him) married his wife to violate the prevalent practice of adoption of the pre-Islamic times. Islam does not legally recognise adoption. The adopted son received no share from the inheritance of a man who adopted him.

might be of age ; he then visited her. But Umm Salamah and all other wives of the Prophet (may peace be upon him) refused to allow anyone to visit them on the basis of such breast-feeding unless one was given breast-feed during infancy. They told 'Ā'ishah : By Allah, we do not know whether that was a special concession granted by the Prophet (may peace be upon him) to Sālim exclusive of the people.<sup>1383</sup>

### Chapter 677

#### DOES SUCKLING LESS THAN FIVE TIMES MAKE MARRIAGE UNLAWFUL ?

(2057) 'Ā'ishah said : In what was sent down in the Qur'ān ten sucklings made marriage unlawful, but they were abrogated by five known ones, and when the Prophet (may peace be upon him) died, these words were among what was recited in the Qur'ān.<sup>1384</sup>

(2058) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying One or two sucks do not make marriage unlawful.<sup>1385</sup>

1383. If an adult sucks the milk of a woman, the question of his fosterage is disputed amongst Companions and the scholars 'Ā'ishah, 'Urwah b. al-Zubair, 'Aṭā' b. Abī Rabāḥ, al-Laith b. Sa'd, Ibn 'Ulayyah and Ibn Ḥazm maintain that fosterage will be applied to him. They argue on the basis of this tradition. The majority of Companions and scholars maintain that fosterage applies only in case a man sucks milk during infancy within the age prescribed by the Qur'ān, (i.e. two years). Fosterage will not be applied to the one who sucks milk after the prescribed age. Many explanations have been offered for the tradition narrated by 'Ā'ishah. This tradition has been abrogated. This incidence of Sālim happened in the early days after migration to Medina. Later on the commandment was repealed. The other versions of this tradition indicate that the wife of Abū Ḥudhaifah knew the fact that fosterage was applied to infancy. The other reply is what Umm Salamah said to 'Ā'ishah. She thought that the concession granted to Sālim might be peculiar to him. His precedent should not be taken in general (*'Awn al-Ma'bud*, II, 181-82).

1384. Abrogation of the Qur'ānic verses is of three kinds : first, abrogation of text and commandment ; second, abrogation of text, and not of commandment ; third, abrogation of commandment and not of text. In this case the text was repealed, but the commandment of unlawfulness of marriage by five sucklings survived. The question of the number of sucklings is disputed. According to a group of scholars, five sucklings make marriage unlawful. This is held by 'Ā'ishah, Ibn Mas'ūd, 'Abd Allah b. al-Zubair, 'Aṭā', Ṭāwūs Sa'īd b. Jubair, 'Urwah b. al-Zubair, al-Laith b. Sa'd, al-Shāfi'i and Ibn Ḥazm. Another group maintains that three sucklings make marriage unlawful. This is the opinion of Ahmad, Ishāq, Abū 'Ubaidah, Abū Thawr, Ibn al-Mandhir and Dāwūd al-Zāhirī. A third group is of opinion that much or less does not count in suckling. Even one suckling makes marriage unlawful. This is the view held by Abū Ḥanīfah, Mālik, al-Thawrī, al-Auzā'i and al-Laith. Ahmad is also reported to have held this view. The opinion held by the majority is sound, for there is variance in the version of the tradition reported by 'Ā'ishah (*'Awn al-Ma'bud*, II, 182).

1385. On the basis of this tradition 'Ā'ishah, al-Shāfi'i and others hold that five sucks make marriage unlawful.

*Chapter 678*ON GIVING A REWARD TO THE NURSE AT THE  
TIME OF WEANING

(2059) Ḥajjāj b. Ḥajjāj quoted his father as saying : Apostle of Allah, what will remove from me the obligation due for fostering a child ? He said : A slave or a slave-woman.<sup>1386</sup>

*Chapter 679*ON WOMEN WHOSE COMBINATION IN MARRIAGE  
IS UNLAWFUL

(2060) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : A woman should not be married to one who had married her paternal aunt, or a paternal aunt to one who had married her brother's daughter, or a woman to one who had married her maternal aunt, or a maternal aunt to one who had married her sister's daughter. A woman who is elder (in relation) must not be married to one who had married a woman who is younger (in relation) to her, nor a woman who is younger (in relation) must be married to one who has married a woman who is elder (in relation) to her.<sup>1387</sup>

(2061) Abū Hurairah said : The Apostle of Allah (may peace be upon him) forbade that a woman and her maternal aunt and a woman and her paternal aunt are joined in marriage.<sup>1388</sup>

(2062) Ibn 'Abbās said : The Prophet (may peace be upon him) abominated the combination of paternal and maternal aunts and the combination of two maternal

1386. The Arabs liked to give the nurse who fostered a child something over and above her remuneration. Some scholars argue on the basis of this tradition that it is commendable to give some reward to a woman who fosters a child at the time of weaning.

1387. It is not lawful to marry a woman and her paternal or maternal aunt and similar other women mentioned in this tradition together. Their combination at a time is forbidden. The reason is that these women have near relationship together. Their mutual love and near kinship will be affected by combining them in marriage with a man. Being co-wives their love might be changed into rivalry and enmity. It is also prohibited to marry two slave-girls who are sisters together.

A woman may be elder in respect of age or rank. This refers to the paternal or maternal aunt. Similarly, a woman can be younger in respect of age or rank. This refers to the daughter of one's brother or the daughter of one's sister. This last sentence does not indicate any new commandment. This is meant only for emphasising the earlier injunction ('*Awn al-Ma'bud*, II, 183).

1388. This tradition indicates that a man should not marry a woman and her paternal or maternal aunt together.

aunts and two paternal aunts<sup>1389</sup> in marriage.

(2063) Ibn Shihāb said : 'Urwah b. al-Zubair asked 'Ā'ishah, wife of the Prophet (may peace be upon him), about the Qur'ānic verse : "And if ye fear that ye will not deal fairly by the orphans, marry of the women, who seem good to you."<sup>1390</sup> She said : O my nephew, this means the female orphan who is under the protection of her guardian, and she holds a share in his property, and her property and beauty attract him ; so his guardian intends to marry her without doing justice to her in respect of her dower, and he gives her the same amount of dower as others give her. They (i.e. the guardians) were prohibited to marry them except that they do justice to them and pay them their maximum customary dower ; and they were asked to marry women other than them (i.e. the orphans) who seem good to them. 'Urwah reported that 'Ā'ishah said : The people then consulted the Apostle of Allah (may peace be upon him) about women after revelation of this verse. Thereupon, Allah, the Exalted, sent down the verse : "They consult thee concerning women. Say : Allah giveth you decree concerning them and the Scripture which hath been recited unto you (giveth decree) concerning female orphans unto whom you give not that which is ordained for them though you desire to marry them."<sup>1391</sup> She said : The mention made by Allah about the Scripture recited to them refers to the former verse in which Allah has said : "And if ye fear that ye will not deal fairly by the orphans, marry of the women who seem good to you."<sup>1392</sup> 'Ā'ishah said : The pronouncement of Allah, the Exalted, in the latter verse, "though you desire to marry them," means the disinterest of one of you in marrying a female orphan who was under his protection, but she had little property and beauty. So they were prohibited to marry them for their interest in the property and beauty of the female orphans due to their disinterest in themselves except that they do justice (to them). The narrator Yūnus said : Rabī'ah said explaining the Qur'ānic verse : "And if ye fear that ye will not deal fairly by the orphans"

1389. Various explanations have been given for the combination of paternal and maternal aunt or two paternal and two maternal aunts. Al-Suyūṭī said : Scholars are generally confused to understand this tradition. The Prophet (may peace be upon him) has forbidden to marry a woman who is paternal aunt and the other is maternal aunt. Or this means that each of them is paternal or maternal aunt of each other. For example, a man marries a woman and his father marries her daughter. Each of these women gave birth to a daughter. Now the daughter of the father is paternal aunt of the daughter of his son, and the daughter of the son is maternal aunt of the daughter of his father. The example of two paternal aunts is that a man marries the mother of a man and another man marries his mother, the daughters born to them are paternal aunts of each other. Take another example for maternal aunts. A man marries the daughter of another man, and the other man marries his daughter. A daughter is born to each of them. These daughters are maternal aunts of each other (*ʿAwn al-Maʿbud*, II, 184).

1390. Qur'ān, iv. 3.

1391. Qur'ān, iv. 127.

1392. Qur'ān, iv. 3.



means: "Leave them if you fear (that you will not do justice to them), for I have made four women lawful to you."<sup>1393</sup>

(2064) 'Alī b. al-Ḥusain<sup>1394</sup> said that when they returned to Medina from Yazīd b. Mu'āwiyah, the place of massacre of al-Ḥusain b. 'Alī (Allah be pleased with them), al-Miswar b. Makhramah met them and said: Tell me if you have any need for me. I said to him: No. He then said: Will you not give me the sword of the Apostle of Allah (may peace be upon him)? I fear the people may not take it from you by force. (He said:) By Allah, if you give it to me, no one can take it from me so long as I am alive. 'Alī b. Abī Ṭālib (may Allah be pleased with him) asked for the hand of Abū Jahl's daughter in marriage after his marriage with Fāṭimah. I heard the Apostle of Allah (may peace be upon him) say, while he was addressing the people about this matter on the pulpit, and I was mature in those days: Fāṭimah is from me, and I am not afraid<sup>1395</sup> that she will be tried in respect of her religion. He then mentioned his other son-in-law who belonged to Banū 'Abd Shams.<sup>1396</sup> He admired him immensely for his relationship with him and extolled him well. He said: He talked to me and talked truly, and he made promise with me and fulfilled it. I do not make lawful what is unlawful and unlawful what is lawful.<sup>1397</sup> But, by Allah, the daughter of the Apostle of Allah and the daughter of the enemy of Allah can never be combined together.

(2065) The aforesaid tradition has also been transmitted by Ibn Abī Mulaikah. He said: 'Alī (Allah be pleased with him) then kept silence about that marriage (i.e. marrying Abī Jahl's daughter).

(2066) Al-Miswar b. Makhramah said that he heard the Apostle of Allah (may peace be upon him) say on the pulpit: Banū Hishām b. al-Mughfirah sought permission

1393. The Qur'ānic verses quoted in this tradition indicate that the guardians of the female orphans should do justice to them. They should not marry them only on account of their property and beauty. In case they are not interested in them, they should marry them to other persons. They can marry women other than these female orphans. The custom that the guardians married the female orphans for their property has been strictly condemned.

1394. Zain al-Ābidīn.

1395. Another version reads: 'I am afraid.' This means: "I am afraid if Fāṭimah has the co-wife, that will be a trial of piety and righteousness on her part. If 'Alī marries Abū Jahl's daughter in her presence, she might do anything wrong in anger. That will be a test of piety for her."

1396. By this he referred to 'Uthmān who was also the son-in-law of the Prophet (may peace be upon him).

1397. This means that it is not forbidden to marry four wives, and 'Alī could marry another woman legally in the presence of Fāṭimah. The permission of marrying four women was accorded by Allah which the Prophet (may peace be upon him) could not annul. But he did not want that 'Alī should marry Abū Jahl's daughter.

from me to marry their daughter to 'Alī b. Abī Tālib. But I do not permit, again, I do not permit, again, I do not permit, except that Ibn Abī Tālib divorces my daughter and marries their daughter. My daughter is my part; what makes her uneasy makes me uneasy, and what troubles her troubles me.<sup>1398</sup> The full information rests with the tradition narrated by Aḥmad.

### Chapter 680

#### TEMPORARY MARRIAGE

(2067) Al-Zuhri said: We were with 'Umar b. 'Abd al-'Azīz. There we discussed temporary marriage. A man called Rabi' b. Saburah said: I bear witness that my father told me that the Apostle of Allah (may peace be upon him) had prohibited it at the Farewell Pilgrimage.<sup>1399</sup>

(2068) Rabi' b. Saburah reported on the authority of his father: The Apostle of Allah (may peace be upon him) prohibited temporary marriage with women.

### Chapter 681

#### SHIGHĀR<sup>1400</sup> MARRIAGE

(2069) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) prohibited *shighār* marriage.<sup>1401</sup> Musaddad added in his version: I said to Nāfi': What is

1398. This shows the extreme love of the Prophet (may peace be upon him) for Fāṭimah.

1399. *Mu'ah* (temporary marriage) was forbidden by the Prophet (may peace be upon him) on six occasions, namely, at the battle of Khaibar, atonement of the *Umrah* ('*Umrat al-Qaḍā'*'), conquest of Mecca, battle of Awṭās, battle of Tabūk and the Farewell Pilgrimage. Al-Thawri said: What is correct is that temporary marriage was made lawful twice and prohibited twice. It was made lawful before the battle of Khaibar, but prohibited on the same occasion. It was again made lawful at the conquest of Mecca and forbidden on the same occasion. This is the year of the battle of Awṭās. Henceforth it remained forbidden eternally. This is the view held by all Companions and scholars. Some of the Companions thought it lawful but later on they withdrew their opinion. The present position is that temporary marriage is eternally forbidden according to all the Sunnis (orthodox Muslims).

According to the Shi'ah, temporary marriage is lawful. This is against the *ijmā'* (consensus of opinion) of the community. 'Umar is said to have made public announcement about its eternal prohibition ('*Awn al-Ma'būd*, II, 186).

1400. *Shighār* is a kind of marriage in which a man marries the daughter or sister of another man and gives his own daughter or sister to him in marriage without fixing any dower. This exchange of daughters or sisters is considered to be the dower.

1401. Al-Nawawi said: All scholars are agreed upon the fact that *shighār* marriage is prohibited. But it is disputed whether or not this prohibition requires nullification of marriage. According to al-Shāfi'i, *shighār* marriage is unlawful and void. Al-Khattābi has attributed the same

*shighār*? He said: (It means that) a man marries the daughter of another man and gives his own daughter to him in marriage without fixing dower; and a man marries the sister of another man and gives him his sister in marriage without fixing dower.

(2070) 'Abd al-Rahmān b. Hurmuz al-A'raj said: Al-'Abbās b. 'Abd Allah b. al-'Abbās married his daughter to 'Abd al-Rahmān b. al-Ḥakam, and 'Abd al-Rahmān married his daughter to him. And they made this (exchange) their dower. Mu'āwiyah wrote to Marwān commanding him to separate them. He wrote in his letter: This is the *shighār* which the Apostle of Allah (may peace be upon him) has forbidden.

## Chapter 682

### TO MARRY A DIVORCED WOMAN FOR MAKING HER LAWFUL FOR HER FORMER HUSBAND (TAḤLIL)

(2071) 'All reported: (The narrator Ismā'īl said: I think al-Sha'bī attributed this tradition to the Prophet): The Prophet (may peace be upon him) said: Curse be upon the one who marries a divorced woman with the intention of making her lawful for her former husband and upon the one for whom she is made lawful.<sup>1402</sup>

(2072) The aforesaid tradition has also been narrated by 'All through a different chain of narrators from the Prophet (may peace be upon him) to the same effect.

view to Ahmad, Ishāq and Abū 'Ubaid. Mālik holds that the marriage shall be nullified before intercourse and after it; according to another statement, it should be nullified before intercourse and not after it. A group of scholars hold that it is valid if dower of a woman of the same social standing (*mahr al-mithl*) is fixed. This is the view held by Abū Ḥanīfah, 'Aṭā', al-Zuhri, al-Laith, Abū Thawr and Ibn Jarīr. Ahmad and Ishāq are also reported to have held this opinion.

It should be noted that sisters, daughters of the brother, of the paternal aunts, of the uncles, and slave-girls are like daughters in respect of this marriage ('*Awṇ al-Ma'būd*, II, 187).

1402. A man has the right of three divorces. When he pronounces three divorces, he cannot take his wife back in marriage unless she is married to someone else and he divorces her. Although a woman becomes lawful for her previous husband, her marriage with another man for this purpose is abominable. The Prophet (may peace be upon him) did not appreciate this practice. This practice is called *ḥaldah*, *taḥlil* or *iqdā*.

Al-Khaṭṭābī said in *Ma'ālim*: If a man marries a woman on condition that he will divorce her, the marriage is void, for it was intended for a limited and temporary period like *mut'ah* marriage. If the man does not impose condition at the time of marriage, but has the intention to divorce the marriage is disapproved (*makrūh*). If he has no intention, and he divorces her after having intercourse with her, she becomes lawful for her former husband. He can marry her after the passing of the waiting period ('*iddah*) ('*Awṇ al-Ma'būd*, II, 188).

## Chapter 683

ON THE MARRIAGE OF A SLAVE WITHOUT THE  
PERMISSION OF HIS MASTERS

(2073) Jābir reported the Apostle of Allah (may peace be upon him) as saying: If any slave marries without the permission of his masters, he is a fornicator.<sup>1403</sup>

(2074) Ibn 'Umar reported the Prophet (may peace be upon him) as saying: If a slave marries without the permission of his master, his marriage is null and void.

Abū Dāwūd said: This tradition is weak. This is *mauqūf* (does not go back to the Prophet). This is the statement of Ibn 'Umar himself.

## Chapter 684

DISAPPROVAL OF SEEKING THE HAND OF A WOMAN IN  
MARRIAGE WHEN ANOTHER MAN HAS ALREADY  
SOUGHT HER HAND IN MARRIAGE

(2075) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: A man should not seek the hand of a woman in marriage when his brother has already sought her hand.<sup>1404</sup>

(2076) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying: One of you must not ask a woman in marriage when his brother has done so already,<sup>1405</sup> and one of you must not sell (his own goods) when his brother has already

1403. This shows that the marriage of a slave is valid with the permission of his master. If he marries without permission, that will be not lawful. This is the view held by Aḥmad and al-Shāfi'i. They maintain that if the master gives him permission, even then the marriage will not be valid. According to Mālik and Abū Ḥanīfah, the marriage is valid if the master gives him permission after marriage. Dāwūd al-Zāhirī holds that the marriage of a slave is valid without the permission of his master. This tradition might not have reached him (*'Awn al-Ma'būd*, II, 189).

1404. According to the majority of jurists, the prohibition refers to the unlawfulness (*taḥrīm*) of marriage. Al-Khaṭṭābī is of opinion that this is meant only for teaching good conduct and morality and is not meant for unlawfulness of marriage. If a woman or her guardian gives their consent to a man, still another man asks her in marriage. In such a case the seeking of her hand by another man is unlawful. In case she rejects him, another man is allowed to seek her hand in marriage. It should be noted that what is prohibited in this tradition is offering and seeking the hand of a woman and not marriage. But offering or betrothal is not necessary for marriage. A man can marry a woman without betrothal. Marriage will be lawful even in case the betrothal is unlawful (*'Awn al-Ma'būd*, II, 189).

1405. If a protected man (*dhimmi*) seeks the hand of a protected woman (*dhimmiyah*) in marriage, a Muslim is allowed to ask her in marriage. This is the opinion of al-Auzā'i and some Shāfi'i scholars. The majority of scholars do not draw such a distinction between a Muslim and a non-Muslim (*'Awn al-Ma'būd*, II, 189).

sold (his goods) except with his permission.<sup>1406</sup>

### Chapter 685

#### ON A MAN WHO LOOKS AT A WOMAN WHOM HE ASKS IN MARRIAGE

(2077) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying: When one of you asked a woman in marriage, if he is able to look at what will induce him to marry her, he should do so. He (Jābir) said: I asked a girl in marriage, I used to look at her secretly, until I looked at what induced me to marry her. I, therefore, married her.<sup>1407</sup>

### Chapter 686

#### GUARDIAN<sup>1408</sup> IN MARRIAGE

(2078) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying: The marriage of a woman who marries without the consent of her guardians is void.<sup>1409</sup> (He said these words) three times. If there is cohabitation, she gets her dower for the intercourse her husband has had. If there is a dispute, the *sulṭān* (man in authority) is the guardian of one who has none.

(2079) This tradition has also been transmitted by 'Ā'ishah through a different

1406 This means that if a Muslim has already sold his goods and the transaction has been finalised, it is not permissible for another Muslim to offer the customer his own goods and dissolve the sale of his brother.

1407. Al-Nawawī said: This tradition indicates that it is commendable to look at a woman whom a man wants to marry. This is the view held by Mālik, Abū Ḥanīfah, al-Shāfi'ī and Aḥmad. But one must look at her face and hands, and not private parts ('*Awn al-Ma'būd*, II, 190).

1408. Paternal relations are guardians of a woman in marriage on condition that they are free and legally responsible. In the absence of paternal relations, her mother will be her guardian. In the absence of mother, the relatives on maternal side will be her guardian. If there are no maternal relatives, the man with whom a woman has a contract of clientage will be her guardian. Finally, the *sulṭān* (or a judge on his behalf) will be the guardian.

1409. This tradition shows that the consent of the guardian is necessary for validity of marriage. If a woman marries without the consent of her guardian, her marriage is void. This is the view held by the majority of jurists. Abū Ḥanīfah maintains that the permission of the guardian is not necessary for adults. This is necessary only for minors. This tradition applies to minors and not to adults. Further, he quotes another tradition of the Prophet (may peace be upon him) which reads: A woman who has no husband has more right to her person than her guardian. According to this tradition, she can marry without the permission of her guardian ('*Awn al-Ma'būd*, II, 191).



chain of narrators from the Prophet (may peace be upon him) to the same effect.

Abū Dāwūd said: Ja'far did not hear any tradition from al-Zuhri. Al-Zuhri gave him his writing.

(2080) Abū Mūsā reported the Prophet (may peace be upon him) as saying: There is no marriage without the permission of a guardian.

Abū Dāwūd said: The narrator Yūnus also transmitted on the authority of Abū Burdah, and Isrā'il narrated from Abū Ishāq on the authority of Abū Burdah.

(2081) Ibn al-Zubair reported on the authority of Umm Ḥabībah that she was the wife of Ibn Jaḥsh, but he died. He was among those who migrated to Abyssinia. Negus then married her to the Apostle of Allah (may peace be upon him).<sup>1410</sup>

### Chapter 687

#### PREVENTION OF A GUARDIAN FROM MARRIAGE

(2082) Ma'qil b. Yasār said: I had a sister and I was asked to give her in marriage. My cousin came to me and I married to him. He then divorced her one revocable divorce. He abandoned her till her waiting period passed. When I was asked to give her in marriage, he again came to me and asked her in marriage. Thereupon I said to him: No, by Allah, I will never marry her to you. Then the following verse was revealed about my case: <sup>1411</sup> "And when ye have divorced women and they reach their term, place not difficulties in the way of their marrying their husbands." <sup>1412</sup>

### Chapter 688

#### THE CASE WHEN TWO GUARDIANS MARRY A WOMAN

(2083) Samurah reported the Prophet (may peace be upon him) as saying: Any woman who is married by two guardians (to two different men) belongs to the first

<sup>1410</sup> Umm Ḥabībah and her husband 'Ubaid Allah (Ibn Jaḥsh) embraced Islam at Mecca. Both of them migrated to Abyssinia. Her husband became a Christian there but she did not. Afterwards 'Ubaid Allah died and Umm Ḥabībah remained there alone. Negus, the ruler of Abyssinia, gave her in marriage to the Prophet (may peace be upon him) on his request (*'Awn al-Ma'būd*, II, 191-92).

<sup>1411</sup> Qur'ān, ii. 231.

<sup>1412</sup> This shows that if a divorced woman wants to go back to her husband, the guardian should not prevent her from marriage. The husband can take her back in the case of revocable divorce during the waiting period. If this period lapses, he can take her back by re-solemnising the marriage.

of them;<sup>1413</sup> and anything sold by a man to two persons belongs to the first of them.

### Chapter 689

#### THE PRONOUNCEMENT OF ALLAH: "IT IS NOT LAWFUL FOR YOU FORCIBLY TO INHERIT THE WOMAN NOR (THAT) YE SHOULD PUT CONSTRAINT UPON THEM"

(2084) Ibn 'Abbās said about the Qur'ānic verse: "It is not lawful for you forcibly to inherit the woman (of your diseased kinsmen), nor (that) ye should put constraint upon them."<sup>1414</sup> When a man died, his relatives had more right to his wife than her own guardian. If any one of them wanted to marry her, he did so; or they married her (to some other person), and if they did not want to marry her, they did so. So this verse was revealed about the matter.<sup>1415</sup>

(2085) Ibn 'Abbās explained the Qur'ānic verse: "It is not lawful for you forcibly to inherit the woman (of your deceased kinsmen) nor (that) ye should put constraint upon them that ye may take away a part of that which ye have given them, unless they be guilty of flagrant lewdness,"<sup>1416</sup> and said: This means that a man used to inherit a relative woman. He prevented her from marriage till she died or returned her dower to her. Hence Allah prohibited that practice.

(2086) The aforesaid tradition has also been transmitted by al-Ḍaḥḥāk to the same effect through a different chain of narrators. This version has: Allah prohibited that (practice).

1413. In case one guardian marries her first, and the other marries her later on after marriage, the second marriage is void. If two guardians marry a woman at a time simultaneously, the marriage is void. This is the opinion of al-Thawrī, Ahmad and Ishāq (*ʿAwn al-Ma'būd*, II, 193).

1414. Qur'an, iv. 19.

1415. This refers to the custom prevalent in pre-Islamic days and in the early days of Islam. When a man dies his widow or her guardian has more right to her person for marrying herself than the relatives of her husband who died. They should not prevent her from marriage.

It is said that this verse was revealed about a woman named Kabahah, daughter of Ma'an. She belonged to Aws. When her husband Abū Qais b. al-Aslat died, according to the custom of the pre-Islamic days, her son asked her in marriage. She came to the Prophet (may peace be upon him) and narrated her story. On this occasion this injunction came down. The relatives of the deceased husband were prohibited from marrying her, or preventing her from marriage (*ʿAwn al-Ma'būd*, II, 193).

1416. Qur'an, iv. 19.

## Chapter 690

## TO ASK PERMISSION OF A WOMAN FOR HER MARRIAGE

(2087) Abū Hurairah reported the Prophet (may peace be upon him) as saying: A woman who has been previously married<sup>1417</sup> should not be married until her permission is asked, nor should a virgin be married without her permission.<sup>1418</sup> They (the people) asked: What is her permission, Apostle of Allah? He replied: It is by her keeping silence.<sup>1419</sup>

(2088) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: An orphan virgin girl should be consulted about herself; if she says nothing that indicates her permission, but if she refuses, the authority of the guardian cannot be exercised against her will.<sup>1420</sup> The full information rests with the tradition narrated by Yazīd.

Abū Dāwūd said: This tradition has also been transmitted in a similar way by Abū Khālid Sulaimān b. Ḥayyān and Mu'ādh b. Mu'ādh on the authority of Muḥammad b. 'Amr.

(2089) The aforesaid tradition has also been transmitted through a different chain of narrators by Muḥammad b. 'Amr. This version adds: If she weeps or keeps silence. The narrator added the word "weeps"

Abū Dāwūd said: The word "weeps" is not guarded. This is a misunderstanding of the tradition on the part of the narrator Ibn Idrīs or Muḥammad b. al-'Aṭā'.

1417. The word used in Arabic is *ṭhayyib*. This means a woman previously married and has no husband, her husband having either divorced her or died

1418. According to Abū Ḥanīfah, the guardian of a minor girl has full authority to marry her, whether she is virgin or previously married. The permission of an adult woman, whether virgin or non-virgin, must be asked for her marriage. She can marry herself independently without the permission of her guardian. According to al-Shāfi'ī and others, a non-virgin or a woman previously married, whether she is minor or adult, is independent. Her permission should be sought before her marriage. But the guardian of a virgin has the authority of marrying her. It matters little whether she is adult or minor.

1419. When the permission of a virgin is asked, she may pronounce the permission or may keep silence. Her silence will be taken as her permission. But a non virgin should pronounce her permission.

1420. *Yatimah* means a mature virgin girl whose father died before her maturity. There is a difference of opinion amongst scholars about marrying a minor girl. According to al-Shāfi'ī her father or grandfather can marry her and not others. Ḥammād b. Sulaimān and Mālik b. Anas hold the view that a testator can marry a minor girl before her maturity.

Abū Ḥanīfah maintains that only the guardian of a minor girl can marry her. It is not necessary that the guardian should be an authorised testator. The girl had the option to retain or dissolve the marriage on her coming of age ('*Awn al-Ma'būd*, II, 194).

Abū Dāwūd said: This tradition has also been narrated by Abū 'Amr Dhakwān on the authority of 'Ā'ishah who said: A virgin is ashamed of speaking, Apostle of Allah. He said: Her silence is her acceptance.

(2090) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying: Consult women about (the marriage of) their daughters.<sup>1421</sup>

### Chapter 691

#### ON A VIRGIN MARRIED BY HER FATHER WITHOUT ASKING HER PERMISSION

(2091) Ibn 'Abbās said: A virgin came to the Prophet (may peace be upon him) and mentioned that her father had married her against her will, so the Prophet (may peace be upon him) allowed her to exercise her choice.<sup>1422</sup>

(2092) The above tradition has been transmitted by 'Ikrimah from the Prophet (may peace be upon him). Abū Dāwūd said: He (Muḥammad b. 'Ubaid) did not mention the name of Ibn 'Abbās in the chain of this tradition. The people have also narrated it *mursal* (without the mention of the name of Ibn 'Abbās) in a similar way. Its transmission in the *mursal* form is well known.

### Chapter 692

#### ON THE MARRIAGE OF A NON-VIRGIN

(2093) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: A woman without a husband<sup>1423</sup> has more right to her person than her guar-

1421. It is commendable to consult mothers about the marriage of their daughters before asking the permission of the girls. A mother is more familiar with the affairs of her daughter, and the daughter likes the consent of her mother about her marriage.

1422. This tradition shows that the guardians should not marry virgins against their will. They should be married where they like.

It seems that the girl who complained to the Prophet (may peace be upon him) against her father might be mature, for the father has authority to marry her minor daughter. When she comes of age, she has the choice to retain or dissolve the marriage. According to Abū Ḥanīfah, the father of a mature girl cannot marry her forcibly against her will. Her consent is necessary. But Aḥmad, Ishāq and al-Shāfi'i maintain that the father of a mature virgin girl can marry her against her will, but not the girl previously married, for she has more right to her person than her guardian. Al-Shāfi'i refers from this tradition that a guardian has more right to a virgin than her person to marry her (*'Awn al-Ma'būd*, II, 195).

1423. The Arabic word *ayyim* means a woman who has no husband. But it is disputed whether it refers to a woman who has been previously married and has no husband, or a woman who has not been married. According to al-Shāfi'i and most of scholars, it means a woman who has been previously

dian, and a virgin's permission must be asked, her permission being her silence.<sup>1424</sup> There are the words of al-Qa'nabl.

(2094) The above tradition has also been transmitted by 'Abd Allah b. al-Faql through his chain of narrators and with different meaning. The version goes : A woman without husband has more right to her person than her guardian ; and the father of a virgin should ask her permission about herself.

Abū Dāwūd said : The word "her father" is not guarded.

(2095) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : A guardian has no concern with a woman previously married and has no husband, and an orphan girl (i.e. virgin) must be consulted, her silence being her acceptance.

(2096) Khansā', daughter of Khidhām al-Anṣārīyyah, reports that when her father married her when she had previously been married, and she disapproved of that, she went to the Apostle of Allah (may peace be upon him) and mentioned it to him. He (the Prophet) revoked her marriage.<sup>1425</sup>

### Chapter 693

#### EQUALITY IN MARRIAGE

(2097) Abū Hurairah said : Abū Hind cupped the Prophet (may peace be upon him) in the middle of his head. The Prophet (may peace be upon him) said : Banū Bayāḍah, marry Abū Hind (to your daughter), and ask him to marry (his daughter) to you.<sup>1426</sup> He said : The best thing by which you treat yourself is cupping.

married and has no husband. According to Abū Ḥanīfah, it means a woman who has no husband, whether a virgin or not (*Awān al-Ma'būd*, II, 196).

1424. According to al-Shāfi'ī and the majority of scholars, a woman with no husband should seek permission of her guardian. This applies only to virgins. According to Abū Ḥanīfah, a mature woman is independent. She can marry without the permission of her guardian.

As regards silence, a virgin may keep quiet due to bashfulness. Her silence will be considered as her consent. But a woman who was previously married and has no husband should utter her consent.

1425 This shows that the permission of a woman who has been previously married must be obtained. If her father arranges her marriage without asking her permission, the marriage will be valid.

1426. Abū Hind was a freed slave of Banū Bayāḍah. He was not a member of their tribe. The Prophet (may peace be upon him) asked Banū Bayāḍah to give their daughter in marriage to Abū Hind and ask him to marry his daughter to them. This shows that only religion shall be considered in respect of equality in marriage. This is the view held by Mālik. This means that it is not necessary that equality in point of lineage, vocation, status and other qualities should be considered in marriage. For the purpose of marriage only religion is worth consideration. A Muslim



## Chapter 694

## ON MARRYING A CHILD BEFORE ITS BIRTH

(2098) Maimūnah daughter of Kardam said : I went out along with my father during *Hajj* performed by the Apostle of Allah (may peace be upon him). I saw the Apostle of Allah (may peace be upon him). My father came near him ; he was riding on his she-camel. He stopped there and listened to him. He had a flog like the flog of the teachers. I heard the bedouins and the people, saying : Keep away from the flog.<sup>1427</sup> My father came near him. He caught hold of his foot and acknowledged him (his Prophethood). He stopped and listened to him. He then said : I participated in the army of 'Athrān (in the pre-Islamic days). The narrator Ibn al-Muthannā said : Army of Gathrān. Ṭāriq b. al-Muraqqa' said : Who will give me a lance and get a reward ? I asked : What is its reward ? He replied : I shall marry him to my first daughter born to me. So I gave him my lance and then disappeared from him till I knew that a daughter was born to him and she came of age. I then came to him and said : Send my wife to me. He swore that he would not do that until I fix a dower afresh other than that agreed between me and him, and I swore that I would not give him the dower other than that I had given him before. The Apostle of Allah (may peace be upon him) said : What is her age these days ? He said : She has grown old. He said : I think you should leave her. He said : This gave me awe and fear, and I looked at the Apostle of Allah (may peace be upon him). When he felt this from me, he said : You will not be sinful, nor will your companion be sinful.<sup>1428</sup>

can marry any Muslim woman whatever her lineage, status and vocation may be. Ibn 'Umar, Ibn Mas'ūd, Muḥammad b. Sirīn and Umar b. 'Abd al-'Azīz are reported have held this view. According to most of the scholars, equality in point of religion, status, lineage, vocation, soundness of health and financial condition should be considered in marriage. Equality in lineage is taken into consideration by the majority of the scholars. According to Abū Ḥanīfah, the Quraish are equals to each other. The Arabs are equal to each other. Non-Arabs are not equal to the Arabs. Al-Shāfi'ī holds a moderate view. He thinks that equality should be taken into consideration in marriage. But marriage is not forbidden between non-equals. If two parties marry, but they are not equal to each other, their marriage is valid with their mutual consent. In case marriage is contracted between non-equals without their mutual consent and agreement, that marriage can be dissolved. It should be noted that there is no sound tradition in support of equality of lineage in marriage (*'Awn al-Ma'bad*, II, 197).

1427. *Ṭabṭiyyah* has been explained in a two-fold way : sound produced by walking and placing steps rapidly ; and the sound produced by striking with the flog.

1428. The marriage of a child not yet born is invalid. The agreement held between Kardam and Ṭāriq was void. The narrator who asked the Prophet (may peace be upon him) about the marriage was afraid of sinfulness, as both of them had sworn that they would not do against their original agreement. In case they married and violated their oath, they would have committed sin.

Abū Dāwūd said : *Qatir* means old age.

(2099) Ibrāhīm b. Maisarah reported from his maternal aunt who reported on the authority of a woman called Muṣaddaqah (a truthful woman). She said : In pre-Islamic days, when my father participated in a battle, the feet of the people burnt due to intense heat. Thereupon a man said : Who gives me his shoes, I shall marry him to my first daughter born to me. My father took off his shoes and threw them before him. A girl was thereafter born to him and came of age. The narrator then mentioned a similar story. But he did not mention that she had grown old.

## Chapter 695

### THE DOWER

(2100) Abū Salamah said : I asked 'Ā'ishah about the dower given by the Apostle of Allah (may peace be upon him). She said : It was twelve uqiyahs and a nashsh. I asked : What is nashsh ? She said : It is half an uqiyah.<sup>1429</sup>

(2101) Abū al-'Ajfa' al-Sulamī said : 'Umar (Allah be pleased with him) delivered a speech to us and said : Do not go to extremes in giving women their dower, for if it represented honour in this world and piety in Allah's sight, the one of you most entitled to do so would have been the Prophet (may peace be upon him). The Apostle of Allah (may peace be upon him) did not marry any of his wives or gave any of his daughters in marriage for more than twelve uqiyahs.<sup>1430</sup>

(2102) 'Urwah reported on the authority of Umm Ḥabībah that she was married to 'Abd Allah b. Jaḥsh who died in Abyssinia, so the Negus married her to the Prophet (may peace be upon him) giving her on his behalf a dower of four thousand (dirhams).<sup>1431</sup> He sent her to the Apostle of Allah (may peace be upon him) with Shuraḥbil b. Ḥasanah. Abū Dāwūd said : Ḥasanah is his mother.

The Prophet (may peace be upon him), therefore, prohibited him from marrying her due to her old age. Further, they would commit a sin contracting an unlawful marriage ( *Awn al-Ma'būd*, II, 198).

1429. The uqiyah has forty dirhams, and nashsh twenty dirhams. The total amount of dower fixed by the Prophet (may peace be upon him) for all his wives was five hundred dirhams. He fixed four thousand dirhams as dower for Umm Ḥabībah. The commendable amount of dower is five hundred dirhams, equivalent to Rs. 131.25 in Pakistan currency. This is the amount of dower fixed by the Prophet (may peace be upon him) for his wives in general. But this was not prescribed by him for all. One may fix more or less than this amount according to one's financial position. The minimum amount of dower is disputed amongst the scholars.

1430. Some versions of this tradition add that a woman stood up and recited the Qur'ānic verse iv. 20 which indicates that, a large sum of money can be appointed as dower. Hearing this verse 'Umar said : A woman is in the right and 'Umar is in the wrong.

1431. The dower of four thousand dirhams fixed for Umm Ḥabībah was fixed by the Negus himself and not by the Prophet (may peace be upon him).

(2103) Al-Zuhri said: The Negus married Umm Ḥabībah daughter of Abū Sufyān to the Apostle of Allah (may peace be upon him) for a dower of four thousand dirhams. He wrote it to the Apostle of Allah (may peace be upon him) who accepted it.<sup>1432</sup>

### Chapter 696

#### THE MINIMUM AMOUNT OF DOWER

(2104) Anas said: The Apostle of Allah (may peace be upon him) saw the trace of yellow on 'Abd al-Raḥmān b. 'Auf. The Prophet (may peace be upon him) said: What is this? He replied: Apostle of Allah, I have married a woman. He asked: How much dower did you give her? He said: A nawāt weight of gold.<sup>1433</sup> He said: Hold a wedding-feast, even if only with a sheep.

(2105) Jābir b. 'Abd Allah reported the Prophet (may peace be upon him) as saying: If anyone gives as a dower to his wife two handfuls of flour or dates he has made her lawful for him.<sup>1434</sup> Abū Dāwūd said: This tradition has been narrated by 'Abd al-Raḥmān b. Maḥdī, from Ṣāliḥ b. Rūmān, from Abū al-Zubair on the authority of Jābir as his own statement (not going back to the Prophet). It has also been transmitted by Abū 'Āṣim from Ṣāliḥ b. Rūmān, from Abū al-Zubair on the authority of Jābir who said: During the lifetime of the Apostle of Allah (may peace be upon him) we used to contract temporary marriage for a handful of grain.<sup>1435</sup>

Abū Dāwūd said: This tradition has also been transmitted by Ibn Juraij from Abū al-Zubair on the authority of Jābir similar to the one narrated by Abū 'Āṣim.

1432. This shows that no amount of dower is prescribed in the *Shari'ah*. One can fix any amount according to one's means. The amount of dower fixed by the Prophet (may peace be upon him) for his wives is commendable but it is not obligatory to follow it.

1433. Nawāt is a weight of five dirhams.

This shows that the minimum of dower was not prescribed by the Prophet (may peace be upon him). This depends on the mutual consent and means of the parties.

1434. This and similar other traditions indicate that the amount of dower varied from person to person according to their circumstances. The amount of minimum dower is disputed amongst scholars. Sufyān al-Thawrī, al-Shāfi'ī, Aḥmad b. Ḥanbal and Ishāq maintain that there is no prescribed limit of the amount of dower. Whatever amount is agreed upon by both the parties, that will be taken as the minimum amount. Sa'īd b. al-Musayyab holds that even a flog can be fixed as a dower in marriage. Mālik maintains that the minimum amount of dower is one-fourth of a dīnār. According to Abū Ḥanīfah, the minimum amount of dower is ten dirhams. In the opinion of 'Sa'īd b. Jubair, it is fifty dīnārs, and al-Nakha'ī takes it forty and Ibn Shubrumah five. All these scholars adduce relevant traditions in support of their viewpoint (*'Awn al-Ma'būd*, II, 201).

1435. This might have been allowed before the annulment of the temporary marriage (*mut'ah*).

## Chapter 697

## MARRIAGE FOR A WORK TO BE PERFORMED BY THE HUSBAND

(2106) Sahl b. Sa'd al-Sā'idī said : A woman came to the Apostle of Allah (may peace be upon him) and said : Apostle of Allah, I have offered myself to you. When she stood for a long time, a man got up and said : Apostle of Allah, marry her to me if you have no need of her. The Apostle of Allah (may peace be upon him) asked : Have you anything to give her as dower? He replied : I have nothing but this lower garment of mine. The Apostle of Allah (may peace be upon him) said : If you give your lower garment, you will sit while you have no lower garment. So look for something else. He said : I do not find anything. He said : Look for something, even though it should be an iron ring. The man sought it but found nothing. The Apostle of Allah (may peace be upon him) said : Do you know anything from the Qur'ān? He said : Yes, I know *sarah* so and so and *sarah* so and so, which he named. The Apostle of Allah (may peace be upon him) said : I have given you her in marriage for the part of the Qur'ān which you know.<sup>1436</sup>

(2107) A tradition similar to the one narrated above has also been transmitted by Abū Hurairah through a different chain of narrators. This version does not mention the lower garment and iron ring. He (the Prophet) said : How much do you memorise from the Qur'ān? He said : Sūrat al-Baqarah or the one that follows it. He said : Stand up and teach her twenty verses : she is your wife.

(2108) Makhūl has also transmitted a tradition like the one narrated by Sahl (b. Sa'd al-Sā'idī). Makhūl used to say : This is not lawful for anyone after the Apostle of Allah (may peace be upon him).<sup>1437</sup>

## Chapter 698

ON A MAN WHO MARRIED BUT DID NOT FIX  
THE DOWER UNTIL HE DIED

(2109) Masrūq said on the authority of 'Abd Allah (b. Mas'ūd) : 'Abd Allah (b.

1436. This tradition shows that the teaching of the Qur'ān can be the dower in marriage. According to the chapter-heading, Abū Dāwūd has inferred that any work which requires some compensation may serve as a dower in marriage.

1437. This is the opinion of Makhūl. It requires an evidence to show that this was peculiar to the Prophet (may peace be upon him) and was not a general commandment.

It should be noted that the validity of fixing the teaching of the Qur'ān as dower in marriage is disputed amongst scholars. According to al-Shāfi'ī, it is permissible. Mālik does not allow it. This is also the opinion of Abū Ḥanīfah, Aḥmad b. Ḥanbal takes it as abominable ('*Awn al-Ma'būd*, II, 202).

Mas'ūd) was asked about a man who had married a woman without cohabiting with her or fixing any dower for her till he died. Ibn Mas'ūd said : She should receive the full dower (as given to women of her class), observe the waiting period ('*iddah*'), and have her share of inheritance. Thereupon Ma'qil b. Sinān said : I heard the Apostle of Allah (may peace be upon him) giving the same decision regarding Birwa' daughter of Wāshiq (as the decision you have given).<sup>1438</sup>

(2110) The aforesaid tradition has also been transmitted by 'Alqamah on the authority of 'Abd Allah. 'Uthmān (b. Abī Shaibah) narrated a similar tradition.

(2111) 'Abd Allah b. 'Utbah b. Mas'ūd said : 'Abd Allah b. Mas'ūd was informed of this story of a man. The people kept on visiting him for a month or visited him many times (the narrator doubted). He said : In this matter I hold the opinion that she should receive the type of dower given to women of her class with no diminution or excess, observe the waiting period ('*iddah*') and have her share of inheritance. If it is erroneous, that is from me and from Satan. Allah and His Apostle are free from its responsibility. Some people from Ashja' got up ; among them was al-Jarrāh and Abū Sinān. They said : Ibn Mas'ūd, we bear witness that the Apostle of Allah (may peace be upon him) gave a decision for us regarding Birwa' daughter of Wāshiq to the same effect as the decision you have given. Her husband was Hilāl b. Murrah al-Ashja'i. Thereupon 'Abd Allah b. Mas'ūd was pleased very much when his decision agreed with the decision of the Apostle of Allah (may peace be upon him).

(2112) 'Uqbah b. 'Āmir said : The Prophet (may peace be upon him) said to a man : Do you like that I marry you to one so-and-so ? He said : Yes. He also said to the woman : Do you like that I marry you to one so-and-so ? She said : Yes. He then married one to the other. The man had sexual intercourse with her, but he did not fix any dower for her, nor did he give anything to her. He was one of those who participated in the expedition to al-Ḥudaibiyah. One who took part in the expedition to al-Ḥudaibiyah had a share in Khaibar. When he was nearing his death, he said : The Apostle of Allah (may peace be upon him) married me to one so-and-so, and I did not fix dower for her, nor did I give anything to her. I call upon you as witness that I have given my share in Khaibar as her dower. So she took the share and sold it for one lac (of dirhams).

Abū Dāwūd said : The version of 'Umar b. al-Khaṭṭāb added in the beginning of this tradition, and his version is more perfect. He reported the Apostle of Allah (may peace be upon him) as saying : The best marriage is the one that is most easy. The Apostle of Allah (may peace be upon him) said to the man. The narrator then transmitted the rest of the tradition to the same effect.

1438. This shows that if a man does not fix dower at the time of his marriage and he dies, his wife will receive the dower given to women of her class, and she will observe the waiting period and have her share of inheritance.



Abū Dāwūd said : I am afraid this tradition has been added later on, for the matter is otherwise.<sup>1439</sup>

### Chapter 699

#### THE ADDRESS OF THE MARRIAGE

(2113) ‘Abd Allah (b. Mas‘ūd) said : The Apostle of Allah (may peace be upon him) taught us the address in case of some need : Praise be to Allah from Whom we ask help and pardon, and in Whom we take refuge from the evils within ourselves. He whom Allah guides has no one who can lead him astray, and he whom He leads astray has no one to guide him. I testify that there is no god but Allah, and I testify that Muḥammad is His servant and Apostle. “You who believe, . . . fear Allah by Whom you ask your mutual rights, and reverence the wombs. Allah has been watching you.”<sup>1440</sup> . . . “you who believe, fear Allah as He should be feared, and die only as Muslims”<sup>1441</sup> . . . “you who believe, fear Allah and say what is true. He will make your deeds sound, and forgive your sins. He who obeys Allah and His Apostle has attained a mighty success.”<sup>1442</sup>

The narrator Muḥammad b. Sulaimān did mention the word “*innā*” (verily).

(2114) Ibn Mas‘ūd said : When the Apostle of Allah (may peace be upon him) recited the *tashahhud*. . . He then narrated the same tradition. In this version after the word “and His Apostle” he added the words : “He has sent him in truth as a bearer of glad tidings and a warner before the Hour. He who obeys Allah and His Prophet is in the right path, and he who disobeys them does not harm anyone except himself, and he does not harm Allah to the least.

(2115) Ismā‘īl b. Ibrāhīm reported on the authority of a man from Banū Sulaim : I asked the Prophet (may peace be upon him) to marry Umāmah daughter of ‘Abd al-Muṭṭalib to me. So he married her to me without reciting the *tashahhud*<sup>1443</sup> (i.e. the sermon for marriage).

1439. This means that these words might have been added later on to this tradition, as the man paid a larger amount of dower on his death-bed.

1440. Qur’ān, iv. 1.

1441. Qur’ān, iii. 102.

1442. Qur’ān, xxxiii. 70.

This tradition indicates that the delivery of an address, particularly the address delivered by the Prophet (may peace be upon him) is recommended at the solemnisation of marriage. It is also commendable to recite this supplication in the case of any need. It should be noted that sermon is not necessary for the validity of marriage. If one omits it at the time of marriage, that will be valid. This is the opinion of Sufyān al-Thawrī and others (*‘Awn al-Ma‘būd*, II, 204).

1443. This shows that the marriage is valid without delivering the sermon.

## Chapter 700

## MARRIAGE IN CHILDHOOD

(2116) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) married me when I was seven years old. The narrator Sulaimān said: Or six years. He had intercourse with me when I was nine years old.<sup>1444</sup>

## Chapter 701

## ON STAYING WITH A VIRGIN WIFE

(2117) 'Abd al-Malik b. Abī Bakr reported from his father on the authority of Umm Salamah: When the Apostle of Allah (may peace be upon him) married Umm Salamah, he stayed with her three nights, and said: Your people (i.e. clan) are not being humbled for you in my estimation. If you wish I shall stay with you seven nights; and If I stay with you seven nights, I shall stay with my other wives seven nights.<sup>1445</sup>

(2118) Anas b. Mālik said: When the Apostle of Allah (may peace be upon him) married Ṣafīyyah, he stayed with her three nights. The narrator 'Uthmān added: She was non-virgin (previously married). He said: This tradition has been narrated to me by Hushaim, reported by Ḥumaid, and transmitted by Anas.

(2119) Anas b. Mālik said: When a man who has a wife marries a virgin he should stay with her seven nights; if he marries a woman who has been previously married he should stay with her three nights. (The narrator said): If I say that he (Anas) narrated this tradition from the Prophet (may peace be upon him) I shall be true. But he said: The *Sunnah* is so-and-so.

1444. This shows that it is permissible for the guardians of the girls to marry them in childhood. If the father marries her daughter in childhood, she has no option after puberty according to Mālik, al-Shāfi'ī and scholars of the Ḥijāz. Abū Ḥanīfah maintains that she has the option to dissolve the marriage after puberty. Further, it is not permissible for the guardians other than the father and grandfather to marry a girl in childhood. If they marry, the marriage will not be valid. This is the view held by al-Shāfi'ī, al-Thawrī, Mālik, Ibn Abī Lailā, Aḥmad, Abū Thawr, Abū 'Uбайд and the majority of scholars. According to al-Awzā'ī and Abū Ḥanīfah, all the guardians can marry a minor girl. She will have to option after marriage. Abū Yūsuf thinks that she will have no option (*ʿAwn al-Ma'bud*, II, 205).

1445. This tradition shows that one should observe equality in staying at nights with one's wives. One may stay seven nights with a virgin wife, and three nights with a non-virgin. But he has to stay seven nights when one is newly married to a virgin.

## Chapter 702

ON A MAN WHO HAS SEXUAL INTERCOURSE WITH HIS WIFE  
BEFORE GIVING HER SOMETHING

(2120) Ibn 'Abbās said : When 'Alī married Fāṭimah, the Prophet of Allah (may peace be upon him) said to him : Give her something. He said : I have nothing with me. He said : Where is your Ḥuṭamīyyah<sup>1446</sup> (coat of mail).<sup>1447</sup>

(2121) Muḥammad b. 'Abd al-Raḥmān b. Thawbān reported on the authority of a man from the Companions of the Prophet (may peace be upon him) : When 'Alī married Fāṭimah, daughter of the Apostle of Allah (may peace be upon him), he intended to have intercourse with her. The Apostle of Allah (may peace be upon him) prohibited him to do so until he gave her something. 'Alī said : I have nothing with me, Apostle of Allah. The Prophet (may peace be upon him) said : Give her your coat of mail. So he gave her his coat of mail, and then cohabited with her.

(2122) A similar tradition has also been transmitted by Ibn 'Abbās through a different chain of narrators.

(2123) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) commanded me to send a woman to her husband before he gave something to her.<sup>1448</sup>

Abū Dāwūd said : The narrator Khaithamah did not hear (any tradition) from 'Ā'ishah.

(2124) 'Amr b. Shu'aib on his father's authority said that his grandfather reported the Apostle of Allah (may peace be upon him) as saying : A woman who marries on a dower or a reward or a promise before the solemnisation of marriage is entitled to it ; and whatever is fixed for her after solemnisation of marriage belongs to whom it is given. A man is more entitled to receive a thing given as a gift on account of his daughter or sister (than other kinds of gifts).<sup>1449</sup>

1446. This coat of mail was called Ḥuṭamīyyah for two reasons : First because it was made of steel of good quality. Swords were broken when they struck it. Second, it is the name of a tribe which manufactured coats of mail. It was known as Ḥuṭamah b. Muḥārib. This coat of mail was attributed to them.

1447. This shows that it is commendable to present some gift to the bride before cohabitation, as it is customary among most of the Muslim families.

1448. This shows that it is not necessary to present a gift to the bride before intercourse. It is only commendable to give something to her.

1449. The gifts given to a woman before the marriage will belong to her, and the dower or gifts given to her after marriage will belong to her guardian. This is the view held by 'Umar b. 'Abd al-'Azīz, al-Thawrī, Abū 'Uбайд and Mālik. Abū Ḥanīfah holds that the gifts and dower will be given to a person for whom they were fixed in the agreement. Al-Shāfi'i maintains that if a guardian stipulates that some gifts or dower should be given to him, this fixation of dower is void. She will receive the type of dower received by women of her class. Sufyān al-Thawrī and Mālik hold

## Chapter 703

## WHAT SHOULD BE SAID TO A BRIDEGROOM AFTER HIS MARRIAGE

(2125) Abū Hurairah said : When the Prophet (may peace be upon him) congratulated a man on his marriage, he said : May Allah bless for you, and may He bless on you, and combine both of you in good (works).<sup>1450</sup>

## Chapter 704

## ON A MAN WHO MARRIES A WOMAN WHOM HE FINDS PREGNANT

(2126) A man from the *Anṣār* called Baṣrah said : I married a virgin woman in her veil. When I entered upon her, I found her pregnant. (I mentioned this to the Prophet). The Prophet (may peace be upon him) said : She will get the dower, for you made her vagina lawful for you. The child will be your slave.<sup>1451</sup> When she has begotten (a child), flog her (according to the version of al-Ḥasan). The version of Ibn Abī al-Sarī has : You people, flog her, or said : inflict *ḥadd* punishment on him.

Abū Dāwūd said : This tradition has been transmitted by Qatādah from Sa'd b. Yazīd on the authority of Ibn al-Musayyab in a similar way. This tradition has been narrated by Yaḥyā b. Abī Kathīr from Yazīd b. Nu'aim from Sa'īd b. al-Musayyab, and 'Aṭā' al-Khurāsānī narrated it from Sa'īd b. al-Musayyab ; they all narrated this tradition from the Prophet (may peace be upon him) omitting the link of the Companion (i.e. a *mursal* tradition). The version of Yaḥyā b. Abī Kathīr has : Baṣrah b. Aktham married a woman. The agreed version has : He made the child his servant.

(2127) Sa'īd b. al-Musayyab said : A man called Baṣrah b. Aktham married a

the view that if a man marries a woman on condition that the husband should give some amount of money to her father in addition to dower, that amount of money will belong to the woman. Aḥmad b. Ḥanbal holds that the stipulated amount will go to his father and not to the woman 'Alī b. al-Ḥusain and Masrūq are reported to have married their respective daughters and stipulated some amount of money to be given to them (*'Awn al-Ma'būd*, II, 207)

1450. The Arabs before Islam used to congratulate the bridegroom by saying : May you be blessed with unity and sons. The Prophet (may peace be upon him) prohibited this blessing and taught a prayer for congratulation himself. It is commendable to congratulate a bridegroom with the words taught by the Prophet (may peace be upon him).

1451. It is to be noted that the child of a free woman cannot be the slave of another man, even if it were born by unlawful intercourse. By being a slave he might have meant that the child will be his servant, and it will receive education and training under his protection.

woman. The narrator then reported the rest of the tradition to the same effect. This version added : And he separated them.<sup>1452</sup> The tradition narrated by Ibn Juraij is perfect.

### Chapter 705

#### DIVISION OF TIME AMONG ONE'S WIVES

(2128) Abū Hurairah reported the Prophet (may peace be upon him) as saying : When a man has two wives and he is inclined to one of them, he will come on the Day of Resurrection with a side hanging down.<sup>1453</sup>

(2129) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) used to divide his time equally and said : O Allah, this is my division concerning what I possess, so do not blame me concerning what Thou possessest and I do not.<sup>1454</sup>

Abū Dāwūd said : By it he meant the heart.

(2130) Hisham b. 'Urwah reported on the authority of his father that 'Ā'ishah said : O my nephew, the Apostle of Allah (may peace be upon him) did not prefer one of us to the other in respect of his division of the time of his staying with us. It was very rare that he did not visit us any day (i.e. he visited all of us every day). He would come near each of his wives without having intercourse with her until he reached the one who had her day and passed his night with her. When Saudah daughter of Zam'ah became old and feared that the Apostle of Allah (may peace be upon him) would divorce her, she said : Apostle of Allah, I give to 'Ā'ishah the day you visit me. The Apostle of Allah (may peace be upon him) accepted it from her. She said : We think that Allah, the Exalted, revealed about this or a similar matter the Qur'ānic verse : "If a wife fears cruelty or desertion on her husband's part. . ."<sup>1455</sup>

(2131) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) used to ask

1452. Al-Khaṭṭābī said : This tradition shows that one should abstain from marrying a woman who is an adulterer or pregnant by unlawful intercourse. This is the view held by Sufyān al-Thawrī, Abū Yūsuf, Aḥmad b. Ḥanbal and Ishāq. Abū Ḥanīfah and Muḥammad b. al-Ḥasan are of opinion that the marriage is valid. This is also the view held by al-Shāfi'ī. To have intercourse with her is disapproved. She will not observe *'iddah* (waiting period) according to Abū Yūsuf and al-Shāfi'ī, (*Awṣ al-Ma'būd*, II, 207).

1453 This tradition indicates that it is necessary for a man to treat his wives equally. He should show his inclination equally to all his wives. One of course cannot be accused of his natural love with any one of them. Equal treatment means outward treatment.

1454. The Prophet (may peace be upon him) meted out equal treatment to his wives. But he had excessive love and inclination to some of his wives. This was something natural and he had no control over it. Allah creates love and inclination to the persons in the hearts and man is helpless in this matter.

1455. Qur'ān, iv. 12.8



our permission on the day he had to stay with one of his wives (by turns) after the following Qur'ānic verse<sup>1456</sup> was revealed : "Thou mayest defer (the turn of) any of them that thou pleasest and thou mayest receive any thou pleasest." The narrator Mu'adhah said : I said to her : What did you say to the Apostle of Allah (may peace be upon him) ? She said : I used to say : If had an option for that, I would not have preferred anyone to myself.<sup>1457</sup>

(2132) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) sent for his wives during his illness. When they got together, he said : I am unable to visit all of you. If you think to permit me to stay with 'Ā'ishah, you may do so. So they permitted him (to stay with 'Ā'ishah).<sup>1458</sup>

(2133) 'Ā'ishah, wife the Prophet (may peace be upon him), reported : When the Apostle of Allah (may peace be upon him) intended to go on a journey he cast lots among his wives, and the one who was chosen by lot went on it with him. He divided his time, day and night (equally), for each of his wives, except that Saudah daughter of Zam'ah gave her day to 'Ā'ishah.<sup>1459</sup>

### Chapter 706

#### ON A MAN WHO STIPULATES AT THE TIME OF MARRIAGE THAT HE WILL NOT TAKE HIS WIFE OUTSIDE THE CITY AND THAT HE WILL STAY WITH HER AT THE SAME PLACE

(2134) 'Uqbah b. 'Āmir reported the Apostle of Allah (may peace be upon him) as saying : The condition worthier to be fulfilled by you is the one by which you made the private parts (of your wives) lawful (for you).<sup>1460</sup>

1456. Qur'ān, xxxiii 51.

1457. The Prophet (may peace be upon him) used to stay with his wives equally at nights. If on a certain night he wanted to change the turn of his wife, he sought her permission. He thought this obligatory on him. But when the verse cited in this tradition was revealed, it did not remain obligatory on him. Nevertheless, he sought their permission for their conciliation.

1458. Due to the illness the Prophet (may peace be upon him) could not divide his time equally between his wives as usual. He, therefore, asked their permission to stay with 'Ā'ishah. He remained there till he died in the house of 'Ā'ishah.

1459. When Saudah daughter of Zam'ah grew old, she gave her day to 'Ā'ishah. The Prophet (may peace be upon him) used to stay with 'Ā'ishah on that day.

1460. The condition imposed by the wife at the time of marriage or the word a man gives before his marriage must be fulfilled. For instance, a woman marries on condition that the husband will not take her outside the place she wants to stay. The husband should fulfil this condition. He cannot legally take her outside the city where she has her residence. He can do so with her consent.

The condition, it should be noted, laid down at the time of marriage must be lawful such as dower, residence, maintenance and good living.

*Chapter 707*

## THE RIGHT OF HUSBAND OVER HIS WIFE

(2135) Qais b. Sa'd said : I went to al-Ḥīrah and saw them (the people) prostrating themselves before a satrap of theirs, so I said : The Apostle of Allah (may peace be upon him) has most right to have prostration made before him. When I came to the Prophet (may peace be upon him), I said : I went to al-Ḥīrah and saw them prostrating themselves before a satrap of theirs, but you have most right, Apostle of Allah, to have (people) prostrating themselves before you. He said : Tell me, if you were to pass my grave, would you prostrate yourself before it ? I said : No. He then said : Do not do so. If I were to command anyone to make prostration before another I would command women to prostrate themselves before their husbands, because of the special right over them given to husbands by Allah.<sup>1461</sup>

(2136) Abū Hurairah reported the Prophet (may peace be upon him) as saying : When a man calls his wife to come to his bed and she refuses and does not come to him, and he spends the night angry, the angels curse her till the morning.<sup>1462</sup>

*Chapter 708*

## THE RIGHT OF A WOMAN OVER HER HUSBAND

(2137) Ḥakīm b. Mu'āwiyah al-Qushairī quoted his father as saying that he asked : Apostle of Allah, what is the right of the wife of one of us over him ? He replied : That you should give her food when you eat, clothe her when you clothe yourself, do not strike her on the face, do not revile her or separate yourself from her except in the house.

Abū Dāwūd said : The meaning of "do not revile her" is, as you say : "May Allah revile you !" <sup>1463</sup>

(2138) Bahz b. Ḥakīm reported on the authority of his father from his grandfather as saying : I said : Apostle of Allah, how should we approach our wives and how should we leave them ? <sup>1464</sup> He replied : Approach your tilth <sup>1465</sup> when or how you

<sup>1461</sup> This shows the superiority of man over women. The wives have been commanded to obey their husbands in respect of lawful things.

<sup>1462</sup> This tradition emphasises the obedience of the wife to her husband.

<sup>1463</sup> A woman has her equal right over her husband. He is responsible for her food, clothes and lodging. As man is stronger than woman by nature, and has superiority over woman, he must avoid beating her as far as possible. If he has to do so, he must avoid her face.

<sup>1464</sup> This refers to the mode of intercourse with one's wife. The Prophet (may peace be upon him) did not prescribe any particular mode, but left it to the discretion of a man.

<sup>1465</sup> The Arabic word is *ḥarth* which means tilth or cultivated land. By this the Prophet

will, give her (your wife) food when you take food, clothe when you clothe yourself, do not revile her face, and do not beat her.

Abū Dāwūd said : The version of Shu'bah has : That you give her food when you have food yourself, and that you clothe her when you clothe yourself.

(2139) Mu'awiyah al-Qushairī said : I went to the Apostle of Allah (may peace be upon him) and asked him : What do you say (command) about our wives ? He replied : Give them food what you have for yourself, and clothe them by which you clothe yourself, and do not beat them, and do not revile them.

### Chapter 709

#### ON BEATING WOMEN

(2140) Abū Ḥarrah al-Ruqāshī reported on the authority of his uncle : The Prophet (may peace be upon him) said : If you fear their recalcitrance, abandon them in their beds.<sup>1466</sup>

The narrator Ḥammād said : By abandonment he meant abandonment of intercourse.

(2141) Iyās b. 'Abd Allah b. Abī Dhubāb reported the Apostle of Allah (may peace be upon him) as saying : Do not beat Allah's handmaidens, but when 'Umar came to the Apostle of Allah (may peace be upon him) and said : Women have become emboldened towards their husbands, he (the Prophet) gave permission to beat them. Then many women came round the family of the Apostle of Allah (may peace be upon him) complaining against their husbands. So the Apostle of Allah (may peace be upon him) said : Many women have gone round Muḥammad's family complaining against their husbands. They are not the best among you.<sup>1467</sup>

(2142) 'Umar b. al-Khaṭṭāb reported the Prophet (may peace be upon him) as saying : A man will not be asked as to why he beat his wife.<sup>1468</sup>

(may peace be upon him) referred to woman with whom a man has sexual intercourse. This refers to the Qur'ānic verse ; "Your wives are as a tilth unto you ; so approach your tilth when or how you will" (ii. 223).

1466. If the wives do not obey their husbands and show recalcitrance towards them, they may abandon intercourse with them as a punishment. This tradition refers to the Qur'ānic verse (iv. 34).

1467 This shows that wives should obey their husbands. In case they do not obey or become emboldened towards their husbands, they should try to amend them by preaching and education. Beating is the last resort. But it is better to avoid beating as far as possible.

1468. This means that a man tries his best to correct his wife, but he fails to do so, he is allowed to beat her as a last resort. This tradition never means that a husband should beat her wife without any valid reason. If he beats her without any fault on her part, he will be responsible and called to answer.

## Chapter 710

## THE COMMANDMENT OF CASTING DOWN EYES

(2143) Jarīr said : I asked the Apostle of Allah (may peace be upon him) about an accidental glance (on a woman). He said : Turn your eyes away.<sup>1469</sup>

(2144) Buraidah reported the Apostle of Allah (may peace be upon him) as saying to 'Alī : Do not give a second look, 'Alī, (because) while you are not to blame for the first, you have no right to the second.<sup>1470</sup>

(2145) Ibn Mas'ūd reported the Apostle of Allah (may peace be upon him) as saying : A woman should not rub her body directly with the body of another woman so that she describes it to her husband as if he were looking at her.<sup>1471</sup>

(2146) Jābir said : The Prophet (may peace be upon him) saw a woman, so he entered upon Zainab, daughter of Jahsh,<sup>1472</sup> and had intercourse with her. He then came out to his Companions and said to them : A woman advances in the form of a devil. When one of you finds that, he should go to his wife (and have intercourse with her), for that will repel what he is feeling.<sup>1473</sup>

(2147) Ibn 'Abbās said : I did not see anything more resembling to minor sins than what Abū Hurairah reported from the Prophet (may peace be upon him) who said : Allah has decreed for the children of Adam a share in adultery ;<sup>1474</sup> he will get

1469. It is necessary for strange men and women to cast down their eyes and not to look at each other. If a man or a woman looks by accident at a strange man or woman, he should not continue glancing, but should turn away the eyes at once. The first glance at a strange woman by accident will be forgiven. This also refers to the Qur'ānic verse xxiv. 30 in which the believers, men and women, have been ordered to cast down their eyes. Al-Qāḍī 'Iyād said : This shows that a woman is allowed to unveil her face. The veiling of the face is recommended (*sunnah*) and not obligatory (*'Awn al-Ma'būd*, II, 212).

1470. This shows that the first glance at a strange woman by accident is not a sin. If a man deliberately has a continuous look at a strange woman, he will be a sinner. One should move away one's eyes immediately from a strange woman.

1471. If a woman describes the features of a strange woman to her husband, he might be tempted to her, and this might lead him to fall into a sin. The wives, therefore, should avoid describing the features and beauty of strange women to their husbands.

1472. Zainab daughter of Jahsh was the wife of the Prophet (may peace be upon him).

1473. When a woman comes out of her house, she charms others by her beauty. Strange men may have evil notions by looking at her. Hence she causes them to fall into sin. Satan also induces the people to commit sin. There is thus a similarity between Satan and a woman who comes out of her house. This also shows that when a man is charmed by some strange woman, he should go to his wife and have intercourse with her to protect himself from sin (*'Awn al-Ma'būd*, II, 213).

1474. This means that a man by nature has a desire and passion for adultery. He is inclined to see strange women. This leads him to commit adultery. The natural inclination of man towards adultery has been described in this tradition as a decree of God for man

it by all means ; the adultery of eyes is looking ; the adultery of tongue is speaking ; the soul desires and has a passion ; the private part confirms or falsifies it.<sup>1475</sup>

(2148) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Every child of Adam has his share in adultery. He then narrated the rest of the tradition. This version then goes : And the hands commit adultery ; their adultery is catching ; and the legs commit adultery ; their adultery is walking ; and the mouth commits adultery ; its adultery is kissing.<sup>1476</sup>

(2149) The aforesaid tradition has also been transmitted by Abū Hurairah through a different chain of narrators. This version adds : The fornication of ear is hearing.<sup>1477</sup>

## Chapter 711

### TO HAVE INTERCOURSE WITH THE FEMALE CAPTIVES OF WAR

(2150) Abū Sa'īd al-Khudrī said : The Apostle of Allah (may peace be upon him) sent a military expedition to Awṭās on the occasion of the battle of Ḥunain. They met their enemy and fought with them. They defeated them and took them captives. Some of the Companions of the Apostle of Allah (may peace be upon him) were reluctant to have intercourse with the female captives in the presence of their husbands who were unbelievers. So Allah, the Exalted, sent down the Qur'ānic verse :<sup>1478</sup> "And all married women (are forbidden) unto you save those (captives) whom your right hands possess." That is to say, they are lawful for them when they complete their waiting period.<sup>1479</sup>

1475. Looking at strange women and speaking to them with passion and even desire are forbidden. Looking at women and speaking to them are motives for adultery. They may lead a man to fall into sin. Hence these acts have been described in this tradition as adultery. These acts induce man to adultery which is confirmed by the private part. These acts are minor sins referred to in the Qur'ānic verse liii. 32.

1476. The catching of a strange woman with hands, walking along with her, and kissing her are unlawful. They lead a man to sin. They are stimulants of fornication. Hence the Prophet (may peace be upon him) called these acts fornication.

1477. The hearing of the voice of a strange woman with a lustful desire is unlawful. As this leads a man to sin, this has been described as fornication.

1478. Qur'ān, iv. 24.

1479. After the distribution of the spoils of war a man may have intercourse with the female slave after passing one menstrual period, if she is not pregnant. If she is pregnant one should wait till she delivers the child. This is the view held by Mālik, al-Shāfi'ī and Abū Thawr. Abū Ḥanīfah holds that if both the husband and wife are captivated together, their marriage tie still continues ; they will not be separated. According to the majority of scholars, they will be separated. Al-Awzā'ī maintains that their marriage tie will continue till they remain part of the spoils of war. If a man



(2151) Abū al-Dardā' said : The Apostle of Allah (may peace be upon him) was in a battle. He saw a woman who was nearing the time when she was to deliver a child. He said : Perhaps her master has intercourse with her. They (the people) said : Yes. He said : I am inclined to invoke a curse on him which will enter his grave with him. How can he make it (the child) an heir when that is not lawful for him ? How can he take it into his service when that is not lawful for him ?<sup>1480</sup>

(2152) Abū Sa'id al-Khudrī traced to the Prophet (may peace be upon him) the following statement regarding the captives taken at Awṭās : There must be no intercourse with a pregnant woman till she gives birth to her child, or with one who is not pregnant till she has had one menstrual period.<sup>1481</sup>

(2153) Ruwāfi' b. Thābit al-Anṣārī said : Should I tell you what I heard the Apostle of Allah (may peace be upon him) say on the day of Hunain : It is not lawful for a man who believes in Allah and the last day to water what another has sown with his water (meaning intercourse with women who are pregnant) ; it is not lawful for a man who believes in Allah and the Last Day to have intercourse with a captive woman till she is free from a menstrual course ; and it is not lawful for a man who believes in Allah and the Last Day to sell spoil till it is divided.

(2154) The aforesaid tradition has also been transmitted by Ibn Isḥāq through a different chain of narrators. This version has the additional word "a menstrual course" in the phrase "till she is free from a menstrual course". This is a misunderstanding on the part of the narrator Abū Mu'āwiyah. This is correct in the tradition of Abū Sa'id (al-Khudrī). This version has the additional words : He who believes in Allah and the Last Day should not ride on a mount belonging to the spoil of Muslims, and when he makes it emaciated returns it ; he who believes in Allah and the Last Day should not put on cloth belonging to the spoils of Muslims, and when he makes it old (shabby) returns it.<sup>1482</sup>

Abū Dāwūd said : The word "menstrual course" is not guarded. This is a misunderstanding on the part of Abū Mu'āwiyah.

buys them, he may separate them if he desires, and cohabit with the female slave after one menstrual period (*'Awn al-Ma'būd*, II. 213).

1480. The master of a pregnant slave woman should wait till she delivers the child. To have intercourse with her during her pregnancy is not permissible.

1481. This tradition clearly indicates that the master of a slave woman should wait till one menstrual period or till the birth of child.

1482. This tradition shows that it is not permissible for Muslims to use the articles belonging to the spoils of the Muslims before their distribution. It is unlawful to use a thing and then return it to the spoils when it is worn out.

## Chapter 712

## MISCELLANEOUS PROBLEMS RELATING TO MARRIAGE

(2155) 'Amr b. Shu'aib on his father's authority said that his grandfather reported the Prophet (may peace be upon him) as saying : If one of you marries a woman or buys a slave, he should say : "O Allah, I ask Thee for the good in her, and in the disposition Thou hast given her ; I take refuge in Thee from the evil in her, and in the disposition Thou hast given her." When he buys a camel, he should take hold of the top of its hump and say the same kind of thing.

Abū Dāwūd said : Abū Sa'īd added the following words in his version : He should then take hold of her forelock and pray for blessing in the case of a woman or a slave.

(2156) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying : If anyone who means to have intercourse with his wife says : "In the name of Allah, O Allah, keep us away from the devil, and keep the devil away from what Thou hast provided us," it will be ordained that no devil will ever harm the child born to them.

(2157) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : He who has intercourse with his wife through her anus is accursed.<sup>1483</sup>

(2158) Muḥammad b. al-Munkadir said : I heard Jābir say : The Jews used to say : "When a man has intercourse with his wife through the vagina, but being on her back,<sup>1484</sup> the child will have a squint," so the verse came down ; "Your wives are a tilth to you, so come to your tilth however you will."<sup>1485</sup>

(2159) Ibn 'Abbās said : Ibn 'Umar misunderstood (the Qur'ānic verse, "so come to your tilth however you will")—may Allah forgive him. The fact is that this clan of the *Anṣār* who were idolaters lived in the company of the Jews who were the people of the Book. They (the *Anṣār*) accepted their superiority over themselves in respect of knowledge, and they followed most of their actions. The people of the Book (i.e. the Jews) used to have intercourse with their women on one side alone (i.e. lying on their backs). This was the most concealing for (the vagina of) women. This

1483. This shows that it is not lawful to have intercourse with one's wife through her anus. This is the view agreed upon by the whole community. The Shī'ah alone allow intercourse through anus, but this is against the traditions which prohibit this practice.

1484. It should be noted that the Jews condemned to have intercourse through the vagina but being on the back, but the Qur'ān did not prohibit this practice. What is prohibited is to have intercourse through the anus which is not meant for this purpose. Vagina is a natural course of intercourse. A man is allowed to have it through this natural course in any way, i.e. standing, sitting lying, etc. There is no restriction on any mode one way choose.

1485. Qur'ān, ii. 223.

clan of the *Anṣār* adopted this practice from them. But this tribe of the Quraish used to uncover their women intensely, and seek pleasure with them from in front and behind and laying them on their backs. When the *Muhājirān* (the Immigrants) came to Medina, a man married a woman of the *Anṣār*. He began to do the same kind of action with her, but she disliked it, and said to him : We were approached on one side (i.e. lying on back) ; do it so, otherwise keep away from me. This matter of theirs spread widely, and it reached the Apostle of Allah (may peace be upon him). So Allah, the Exalted, sent down the Qur'ānic verse : "Your wives are a tilth to you, so come to your tilth however you will,"<sup>1486</sup> i.e. from in front, from behind or lying on the back. By this the verse meant the place of the delivery of the child, i.e. vagina.

### Chapter 713

#### TO HAVE INTERCOURSE WITH A MENSTRUATING WOMAN AND LYING WITH HER

(2160) Anas b. Mālik said : Among the Jews, when a woman menstruated, they did not eat with her, and did not drink with her, and did not associate with her in their houses ; so the Apostle of Allah (may peace be upon him) was questioned about it. Hence Allah, the Exalted, revealed : "And they ask you about menstruation. Say : It is harmful ; so keep aloof from women during menstruation,"<sup>1487</sup> till the end of the verse. The Apostle of Allah (may peace be upon him) said : Associate with them in the houses, and do everything except sexual intercourse. The Jews thereupon said : This man does not leave anything we do without opposing us in it. Usaid b. Ḥuḍair and 'Abbād b. Bishr came to the Apostle of Allah (may peace be upon him) and said : Apostle of Allah, the Jews are saying such and such. Shall we not have intercourse with them during their menstruation. The face of the Apostle of Allah (may peace be upon him) underwent such a change that we thought he was angry with them ; so they went out. They were met by a gift of milk which was being brought to the Apostle of Allah (may peace be upon him), and he sent after them, whereby we felt that he was not angry with them.<sup>1488</sup>

(2161) 'Ā'ishah said : I and the Apostle of Allah (may peace be upon him) used to lie in one cloth at night while I was menstruating. If anything from me smeared him, he washed the same place (that was smeared), and did not wash beyond it. If

1486. Qur'ān, ii. 223.

1487 Qur'ān, ii. 222.

1488. This tradition shows that sexual intercourse with a menstruating woman is unlawful as forbidden in the Qur'ān. But one can live with them, lie with them, and eat, drink and associate with them in the houses. Doing everything with them is lawful except sexual intercourse.

anything from him smeared his clothe, he washed the same place and did not wash beyond that, and prayed with it (i.e. the clothe).<sup>1489</sup>

(2162) Maimūnah, daughter of al-Ḥārith, said : When the Apostle of Allah (may peace be upon him) intended to associate and lie with any of his wives who was menstruating, he ordered her to wrap up the lower garment (loin-cloth), and then he had association with her.<sup>1490</sup>

### Chapter 714

#### EXPIATION FOR COHABITATION WITH A MENSTRUATING WOMAN

(2163) Ibn 'Abbās reported that the Prophet (may peace be upon him) said about a man who has sexual intercourse with a menstruating woman : He should give one or half dīnār as *ṣadaqah*.<sup>1491</sup>

(2164) Ibn 'Abbās said : If a man has sexual intercourse (with a menstruating woman) during her bleeding, he should give one dīnār as *ṣadaqah*, and if he does so when bleeding has stopped, he should give half a dīnār as *ṣadaqah*.<sup>1492</sup>

### Chapter 715

#### WITHDRAWING THE PENIS WHILE COHABITING WITH ONE'S WIFE

(2165) Abū Sa'īd reported : The people mentioned about withdrawing the penis

1489 This tradition clearly indicates that a man can lie with a menstruating woman and have association with her.

1490. One is allowed to have association with a menstruating woman, but it is necessary that she should wear the lower garment. If a man lies with her, he should be careful that his menstruating wife should cover her lower part with a garment so that he may avoid intercourse.

1491. This shows that if a man has sexual intercourse with a menstruating woman, he should give one or half dīnār as *ṣadaqah*. This is the view held by al-Ḥasan al-Baṣrī and Sa'īd b. al-Musayyab. But they stipulate the manumission of a slave. Other scholars follow this tradition literally. Al-Khaṭṭābī said : The majority of scholars maintain that no *ṣadaqah* is binding on him. According to them, this tradition is *muṣṣal* (the link of the Companion is missing) or *mauqūf* (reported by a Companion as his own statement and the tradition does not go back to the Prophet). But Ibn Daqīq'al-ʿĪd thinks that this tradition is sound and should be followed ('*Awn al-Ma'būd*, II, 217).

1492. It should be noted that traditions on this subject are all weak. Some go back to the Prophet (may peace be upon him), others have been reported as the statement of a Companion, and some have defective chain. Hence al-Shāfi'ī observed : If a man cohabits with his menstruating wife inadvertently or intentionally, he should beg Allah's forgiveness, and should not repeat. Many traditions have been reported on this subject. Had any one of them been sound, we would have followed it. But none of them has been proved sound ('*Awn al-Ma'būd*, II, 217).

before the Prophet (may peace be upon him). He said : Why one of you does so ? He did not say : One of you should not do so. Every soul that is to be born Allah will create it.<sup>1493</sup> Abū Dāwūd said : Qaza'ah is client of Ziyād.

(2166) Abū Sa'īd al-Khudrī reported that a man said : Apostle of Allah, I have a slave-girl and I withdraw the penis from her (while having intercourse), and I dislike that she becomes pregnant. I intend (by intercourse) what the men intend by it. The Jews say that withdrawing the penis is burying the living girls on a small scale. He (the Prophet) said : The Jews told a lie. If Allah intends to create it, you cannot turn it away.

(2167) Muḥairiz said : I entered the mosque and saw Abū Sa'īd al-Khudrī. I sat with him and asked about withdrawing the penis (while having intercourse). Abū Sa'īd said : We went out with the Apostle of Allah (may peace be upon him) on the expedition to Banū al-Muṣṭaliq, and took some Arab women captive, and we desired the women, for we were suffering from the absence of our wives, and we wanted ransom ;<sup>1494</sup> so we intended to withdraw the penis (while having intercourse with the slave-women). But we asked ourselves : Can we draw the penis when the Apostle of Allah (may peace be upon him) is among us before asking him about it ? So we asked him about it. He said : It does not matter if you do not do it, for every soul that is to be born up to the Day of Resurrection will be born.<sup>1495</sup>

(2168) Jābir said : A man from the *Anṣār* came to the Apostle of Allah (may peace be upon him) and said : I have a slave-girl, and I have intercourse with her, but I dislike her to conceive. He replied : Withdraw your penis from her if you wish, for what is decreed for her will come to her. After a time the man came to him and said : The girl has become pregnant. He said : I told you that what was decreed for her would come to her.<sup>1496</sup>

1493. This tradition shows that it is of no use to withdraw the penis while having intercourse with one's wife to prevent birth of a child. If a child is to be born, that will be born by all means. No one can prevent it. After narrating this tradition 'al-Tirmidhī said : A group of scholars from the Companions of the Prophet (may peace be upon him) and others regard withdrawing the penis as abominable (*'Awn al-Ma'būd*, II, 218).

1494. This means that the Companions wanted to have intercourse with the slave-girls, but they were afraid of conception. In case they were pregnant and gave birth to a child, they could not be sold as it was prohibited that a slave-mother should be sold. So they withdrew the penis while having intercourse with them. By this they meant to sell the slave-girls and obtain their ransom.

1495. This shows the permissibility of withdrawing the penis. Some scholars take it as disapproved in all conditions. Others maintain that to withdraw the penis while having intercourse with a slave-girl is permissible without her permission. But permission is necessary in the case of a free woman.

1496. This shows the permissibility of withdrawing the penis from the slave-girls. A number



## Chapter 716

DISAPPROVAL OF SPREADING THE SECRETS OF  
INTERCOURSE TO OTHERS

(2169) Abū Naḍrah reported : An old man of Ṭufāwah<sup>1497</sup> said to me : I was a guest of Abū Hurairah at Medina. I did not find any one of the Companions of the Prophet (may peace be upon him) more devoted to worship, and hospitable than Abū Hurairah. One day I was with him when he was sitting on his bed. He had a purse which contained pebbles or kernels. A black slave-girl of his was sitting beneath. Counting them he was glorifying Allah. When the pebbles or the kernels in the purse were finished, she gathered them and put them again in the purse, and gave it to him. He said : Should I not tell you about me and about the Apostle of Allah (may peace be upon him)? I said : Yes. He said : Once when I was laid up with fever in the mosque, the Apostle of Allah (may peace be upon him) came and entered the mosque, and said : Who saw the youth of al-Daws.<sup>1498</sup> He said this three times. A man said : Apostle of Allah, there is he, laid up with fever in a side of the mosque. He moved walking forward till he reached me. He placed his hand on me. He had a kind talk with me, and I rose. He then began to walk till he reached the place where he used to offer his prayer. He paid his attention to them (i.e. the people). There were two rows of men and one row of women, or two rows of women and one row of men (the narrator is doubtful). He then said : If Satan makes me forgetful of anything during the prayer, men should glorify Allah, and women should clap their hands. The Apostle of Allah (may peace be upon him) then prayed and he did not forget anything during the prayer. He said : Be seated in your places, be seated in your places. The narrator Mūsā added the word "here". He then praised Allah and exalted Him, and said : Now to our topic. The agreed version begins : He then said : Is there any man among you who approaches his wife, closes the door, covers himself with a curtain; and he is concealed with the curtain of Allah? They replied : Yes. He said : Thereafter he sits and says : I did so-and-so ; I did so-and-so. The people kept silence. He then turned to women and said (to them) : Is there any woman among you who narrates it? They kept silence. Then a girl fell on one of her knees. The narrator Mu'ammil said in his version : A buxom girl. She raised her head before the Apostle

of the Companions and Successors have allowed it. But others take it as abominable. According to Ibn 'Abbās, one should ask the permission of a free woman for withdrawing the penis from her, but permission is not necessary in the case of a slave-girl. This is held by Aḥmad b. Ḥanbal. Mālik maintains that one should ask a free woman for her permission to withdraw the penis. If the slave-girl is one's wife, one should seek the permission from her relatives.

<sup>1497</sup> The name of a tribe.

<sup>1498</sup> The name of the tribe of Abū Hurairah.

of Allah (may peace be upon him) so that he could see her and listen to her. She said Apostle of Allah, they (the men) describe the secrets (of intercourse) and they (the women) also describe the secrets (of intercourse) to the people. He said : Do you know what the similitude is ? He said : The likeness of this act is the likeness of a female Satan who meets the male Satan on the roadside ; he fulfils his desire with her while the people are looking at him. Beware ! the perfume of men is that whose smell becomes visible and its colour does not appear. Beware, the perfume of women is that whose colour becomes visible and its smell does not manifest.<sup>1499</sup>

Abū Dāwūd said : From here I remembered this tradition from Mū'ammil and Mūsā : Beware, no man should lie with another man, no woman should lie with another woman except with one's child or father.<sup>1500</sup> He also mentioned a third on which I forgot. This has been mentioned in the version of Musaddad, but I do not remember it precisely as I like. The narrator Mūsā said : Ḥammād narrated this tradition from al-Jarīrī from Abū Naḍrah from al-Ṭufāwī.

<sup>1499</sup>. This tradition clearly shows that it is forbidden to spread the secrets of intercourse by men and women. This is an immodest act condemned by the Prophet (may peace be upon him) by giving the similitude of intercourse of male and female Satans on a thoroughfare.

Furthermore, this tradition also indicates that men should use the perfume which bears smell but not colour, and women should use the perfume which bears colour but not smell.

<sup>1500</sup>. This means that two men or two women should not lie naked with each other in a single garment as this may lead to falling into sin. Two men or two women can lie together in one garment while they are wearing clothes (*'Awn al-Ma'būd*, II, 220).

## VI. KITĀB AL-ṬALĀQ

### [ THE BOOK OF DIVORCE ]

#### *The Rules of Law about Divorce*

##### *Chapter 717*

#### ON A MAN WHO INCITES A WOMAN AGAINST HER HUSBAND

(2170) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: Anyone who incites a woman against her husband or a slave against his master is not one of us.<sup>1501</sup>

##### *Chapter 718*

#### ON A WOMAN WHO ASKS A MAN TO DIVORCE HIS WIFE IN ORDER TO MARRY HER

(2171) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: A woman should not ask for the divorce of her sister to make her bowl vacant for her, and to marry him. She will have what is decreed for her.<sup>1502</sup>

##### *Chapter 719*

#### ON THE ABOMINATION OF DIVORCE

(2172) Muḥārib reported the Apostle of Allah (may peace be upon him) as saying:

1501. Islam wants mutual love and unity between husband and wife. A man who creates hatred between them has been depreciated by the Prophet (may peace be upon him). Divorce is lawful but most abominable of the lawful acts. One is allowed to have a resort to it when all the avenues to unity are closed. One who induces another person to divorce his wife is the most condemned person.

1502. To make the bowl vacant means to have her share in the maintenance and property of the man whom a woman wants to marry. This shows that if a woman wants to marry a person who has already his wife, she should not demand him to divorce his wife with the intention of inmarrying him and have her full share in the property of her would-be husband. She should live as a co-wife and have her share in the property of the man as decreed by Allah for her.

Allah did not make anything lawful more abominable to Him than divorce.<sup>1503</sup>

(2173) Ibn 'Umar reported the Prophet (may peace be upon him) as saying: Of all the lawful acts the most detestable to Allāh is divorce.<sup>1504</sup>

### Chapter 720

#### DIVORCE ACCORDING TO THE *SUNNAH*

(2174) 'Abd Allah b. 'Umar said that he divorced his wife while she was menstruating during the time of the Apostle of Allah (may peace be upon him). So 'Umar b. al-Khaṭṭāb asked the Apostle of Allah (may peace be upon him) about this matter. The Apostle of Allah (may peace be upon him) said: Order him, he must take her back and keep her back till she is purified, then has another menstrual period and is purified. Thereafter if he desires he may divorce her before having intercourse with her, for that is the period of waiting which Allah, the Glorified, has commanded for the divorce of women.<sup>1505</sup>

(2175) The aforesaid tradition has also been transmitted by Nāfi' through a different chain of narrators. This version says: Ibn 'Umar divorced a wife of his while she was menstruating pronouncing one divorce. He then narrated the rest of the tradition similar to the one narrated by Mālik.

(2176) Ibn 'Umar said that he divorced his wife while she was menstruating. 'Umar mentioned the matter to the Prophet (may peace be upon him). He (the Prophet) said: Order him, he must take her back and divorce her when she is purified (from menstrual discharge), or she is pregnant.<sup>1506</sup>

(2177) 'Abd Allah (b. 'Umar) said that he divorced his wife while she was menstruating. 'Umar mentioned the matter to the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) became angry and said: Command him, he must take her back and keep her till she is purified, then has another menstrual period and is purified. Then if he desires, he may divorce her during the

1503. Divorce is lawful but one should have a resort to it when there remains no alternative except separation. Divorce should be avoided as far as possible. One should adopt all possible means for conciliation.

¶ 1504 This also shows that divorce is not an appreciable act.

1505. This shows that the approved method of divorce, according to the *sunnah*, is that one should do so when the woman is purified. A man should not divorce her wife while she is menstruating.

1506. A man must divorce his wife when she is purified from menstrual discharge. He must not have sexual intercourse with her during this period of purity. The waiting period for the divorce is three periods of purity including the one in which he divorced her. This is according to al-Shāfi'i and others. Abū Ḥanīfah maintains that the waiting period is three monthly courses.

period of purity before he has intercourse with her. This is the divorce for waiting period as commanded by Allah, the Exalted.

(2178) Yūnus b. Jubair said that he asked Ibn 'Umar: How many times did you pronounce divorce to your wife? He replied: Once.

(2179) Yūnus b. Jubair said: I asked 'Abd Allah b. 'Umar: A man divorced his wife while she was menstruating? He said: Do you know 'Abd Allah b. 'Umar? He said: Yes. He said: 'Abd Allah b. 'Umar divorced his wife while she was menstruating; so 'Umar came to the Prophet (may peace be upon him) and asked him (about this matter). He said: Command him to take her back in marriage; he may then divorce her in the beginning of the waiting period.<sup>1507</sup> I (Ibn Jubair) asked him: Will this divorce be counted? He said: Why not? If he was helpless and showed his foolishness (that would have been counted).<sup>1508</sup>

(2180) 'Abd al-Rahman b. Aiman, the client of 'Urwah, asked Ibn 'Umar and Abū al-Zubair was listening: What do you think if a man divorces his wife while she is menstruating? He said: 'Abd Allah b. 'Umar divorced his wife while she was menstruating during the time of the Apostle of Allah (may peace be upon him). So 'Umar asked the Apostle of Allah (may peace be upon him) saying: 'Abd Allah b. 'Umar divorced his wife while she was menstruating. 'Abd Allah said: He returned her to me and did not count it (the pronouncement) anything.<sup>1509</sup> He said: When she is purified, he may divorce her or keep her with him. Ibn 'Umar said: The Prophet (may peace be upon him) recited the Qur'ānic verse: O Prophet, when you divorce women, divorce them in the beginning of their waiting period."<sup>1510</sup>

Abū Dāwūd said: This tradition has been narrated by Yūnus b. Jubair, Anas b. Sirīn b. Jubair, Zaid b. Aslam, Abū al-Zubair and Maṣūf from Abu Wā'il on the authority of Ibn 'Umar. They all agreed on the theme that the Prophet (may peace be

1507. This shows that divorce during the menstrual discharge is prohibited. But if a man divorces his wife during this period, that will count. The man will be sinful. One should, therefore, divorce when a woman is free from menstrual discharge.

1508. This means that if he had not revoked and taken her back in marriage, she would have been divorced. The divorce during menstruation would be counted.

1509. This version of Abū al-Zubair indicates that the Prophet (may peace be upon him) did not take into consideration the divorce during menstruation. The other versions state that this divorce was counted. About this version al-Khaṭṭābī said: The version of Yūnus b. Jubair is more dependable than this version. This version of Abū al-Zubair is *munḥar* (contradictory to the majority of the versions). The version narrated by Abū al-Zubair cannot be relied upon *vis-à-vis* the versions narrated by a number of narrators. He is no authority against them. This shows that the divorce pronounced during menstruation is taken into account like the one pronounced during purity. (*Awn al-Ma'būd*, II, 223).

1510. Qur'ān, lxx. 1. The established version is "at their prescribed periods."



upon him) commanded him to take her back (and keep her) till she was purified. Then if he desired, he might divorce her or keep her with him if he wanted to do so. The version narrated by al-Zuhri from Sālim and Nāfi' on the authority of Ibn 'Umar has: The Prophet (may peace be upon him) commanded him to take her back (and keep her) till she is purified, and then has menstrual discharge, and then she is purified. Then if he desires, he may divorce her and if he desires he may keep her.

Abū Dāwūd said: A version like that of Nāfi' and al-Zuhri has also been transmitted by 'Aṭā' al-Khurāsānī from al-Ḥasan on the authority of Ibn 'Umar. All the versions of this tradition contradict the one narrated by Abū al-Zubair.

### Chapter 721

#### ON A PERSON WHO TAKES HIS WIFE BACK IN MARRIAGE, BUT DOES NOT CALL ANYONE TO WITNESS

(2181) Muṭarrif b. 'Abd Allah reported: 'Imrān b. Ḥuṣain was asked about a person who divorces his wife, and then has intercourse with her, but he does not call any witness to her divorce nor to her restoration. He said: You divorced against the *sunnah* and took her back against the *sunnah*. Call someone to bear witness to her divorce, and to her return in marriage, and do not repeat it.<sup>1511</sup>

### Chapter 722

#### ON THE APPROVED METHOD OF DIVORCE BY A SLAVE

(2182) 'Umar b. Mu'tab reported: Abū Ḥasan, a client of Banū Nawfal asked Ibn 'Abbās: A slave had a wife who was a slave-girl. He divorced her by two pronouncements. Afterwards both of them were freed. Is it permissible for him to ask her in marriage again? He said: Yes. This is a decision given by the Apostle of Allah (may peace be upon him).<sup>1512</sup>

(2183) The aforesaid tradition has also been transmitted by 'Alī (b. al-Mubārak)

1511. There is a difference of opinion among scholars on calling witness to divorce and its revocation. According to Mālik and al-Shāfi'i, it is necessary to call witness to the revocation of divorce. But Abū Ḥanīfah and al-Shāfi'i (in one of his statements) do not think it necessary to call witness for revocation. According to the Shāfi'ah, calling witness is necessary for the validity of divorce. Calling witness to divorce is not necessary according to the Sunnis.

1512. Al-Khaṭṭābī said: This is a weak tradition. No one maintains that a slave can take a slave-girl back in marriage after two pronouncements. He can take her back after she has been married to some other person and he has divorced her. It should be noted that the slave is entitled to two pronouncements of divorce and not to three ('*Awn al-Ma'būd*, II, 223).

through a different chain of narrators to the same effect. This version adds: Ibn 'Abbās said: There remained one more pronouncement of divorce for you. The Apostle of Allah (may peace be upon him) took the same decision.

Abū Dāwūd said: I heard Aḥmad b. Ḥanbal say: 'Abd al-Razzāq said that Ibn al-Mubārak said to Ma'mar: Who is this Abū al-Ḥasan? He bore a big rock.

Abū Dāwūd said: Al-Zuhri has narrated (traditions) on the authority of this Abū al-Ḥasan. Al-Zuhri said: He was a lawyer, and al-Zuhri narrated many traditions from Abū al-Ḥasan.

Abū Dāwūd said: Abū al-Ḥasan is a well-known narrator. This tradition is not practised.

(2184) 'Ā'ishah reported the Prophet (may peace be upon him) as saying: The divorce of a slave-woman consists in saying it twice and her waiting period is two menstrual courses (*qur'*).

Abū 'Āsim said: A similar tradition has been narrated to me by Muzāhir and al-Qāsim on the authority of 'Ā'ishah from the Prophet (may peace be upon him), except that he said: And her waiting period (*'iddah*) is two courses.

Abū Dāwūd said: This tradition is obscure.

### Chapter 723

#### ON DIVORCE BEFORE MARRIAGE

(2185) 'Amr b. Shu'aib reported from his father on the authority of his grandfather: The Prophet (may peace be upon him) said: There is no divorce except in what you possess; there is no possession, there is no sale transaction till you possess. The narrator Ibn al-Ṣabbāḥ added: There is no fulfilling a vow till you possess.<sup>1513</sup>

(2186) The above tradition has been transmitted by 'Amr b. Shu'aib through a different chain of narrators to the same effect. This version adds: If anyone swears an oath to do an act of disobedience to God, his oath is not valid, and if anyone swears an oath to sever relationship, his oath is not valid<sup>1514</sup> (i.e. he must not fulfil it).

(2187) The above tradition has been transmitted by 'Amr b. Shu'aib through a different chain of narrators. This version adds: The Prophet (may peace be upon him) said: There is no vow except in an act which seeks the pleasure of Allah, the Exalted.

1513. This shows that divorce is not valid before marriage. Similarly, in cases of manumission, sale transaction and fulfilling a vow, possession is necessary.

1514. This shows that if a person swears an oath to do an act of obedience to God he must fulfil it. If he swears to do an act of disobedience to God or an act which is beyond his capacity or control, he should not fulfil it. Instead, he should make an atonement for it.

## Chapter 724

## DIVORCE IN ANGER OR UNDER DURESS

(2188) Muḥammad b. 'Ubaid b. Abī Šāliḥ who lived in Ailiyā<sup>1515</sup> said: I went out with 'Adī b. 'Adī al-Kindī till we came to Mecca. He sent me to Šafīyyah daughter of Shaibah who remembered a tradition (that she had heard) from 'Ā'ishah. She said: I heard 'Ā'ishah say: I heard the Apostle of Allah (may peace be upon him) say: There is no divorce or emancipation in case of constraint or duress (*ghalaq*).<sup>1516</sup>

Abū Dāwūd said: I think *ghalaq* means anger.

## Chapter 725

## DIVORCE IN JEST

(2189) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: There are three things which, whether undertaken seriously or in jest, are treated as serious: Marriage, divorce and taking back a wife (after a divorce which is not final).<sup>1517</sup>

## Chapter 726

INVALIDITY OF TAKING WIFE BACK IN MARRIAGE AFTER  
THREE PRONOUNCEMENTS OF DIVORCE

(2190) Ibn 'Abbās said: Divorced women shall wait concerning themselves for three monthly periods. Nor is it lawful for them to hide what Allah hath created in their wombs.<sup>1518</sup> This means that if a man divorced his wife he had the right to take her back in marriage though he had divorced her by three pronouncements. This was then repealed (by a Qur'ānic verse). He said: Divorce is only permissible twice.<sup>1519</sup>

1515. The name of a place in Syria; or this is the old name of Jerusalem.

1516. According to Mālik, al-Shāfi'ī and Aḥmad b. Ḥanbal, divorce by force or in anger is not valid. Abū Ḥanīfah maintains that divorce under duress is valid ('*Awn al-Ma'būd*, II, 225)

1517. There is a consensus among scholars that if an adult and sane person pronounces a divorce in jest, that is valid. It is of no use of saying afterwards that he was joking. This also applies to manumission of slaves and taking one's wife back in marriage if the divorce is not final! The divorce in jest is taken seriously, for people begin to play with the injunctions of the *Shari'ah* if it is not treated strictly.

1518. Qur'ān, ii. 228.

1519. Qur'ān, ii. 229.

It should be noted that in pre-Islamic days there was no limit on pronouncements of divorce. A man could revoke the divorce even after three divorces. This was repealed by the Qur'ānic verses. Now a man can revoke if he divorces by one or two pronouncements.

(2191) Ibn 'Abbās said: 'Abd Yazīd, the father of Abū Rukānah and his brothers, divorced Umm Rukānah and married a woman of the tribe of Muzainah. She went to the Prophet (may peace be upon him) and said: He is of no use to me except that he is as useful to me as a hair;<sup>1520</sup> and she took a hair from her head. So separate me from him. The Prophet (may peace be upon him) became furious. He called on Rukānah and his brothers. He then said to those who were sitting beside him: Do you see so-and-so who resembles 'Abd Yazīd in respect of so-and-so; and so-and-so who resembles him in respect of so-and-so?<sup>1521</sup> They replied: Yes. The Prophet (may peace be upon him) said to 'Abd Yazīd: Divorce her. Then he did so. He said: Take your wife, the mother of Rukānah and his brothers, back in marriage. He said: I have divorced her by three pronouncements, Apostle of Allah. He said: I know; take her back. He then recited the verse: "O Prophet, when you divorce women, divorce them at their appointed periods."<sup>1522</sup>

Abū Dāwūd said: The tradition narrated by Nāfi' b. 'Ujair and 'Abd Allah b. Yazīd b. Rukānah from his father on the authority of his grandfather reads: Rukānah divorced his wife absolutely (i.e. irrevocable divorce). The Prophet (may peace be upon him) restored her to him. This version is sounder (than other versions), for they (i.e. these narrators) are the children of this man, and the members of the family are more aware of his case. Rukānah divorced his wife absolutely (i.e. three divorces in one pronouncement) and the Prophet (may peace be upon him) made it a single divorce.<sup>15 3</sup>

(2192) Mujāhid said: I was with Ibn 'Abbās. A man came to him and said that he divorced his wife by three pronouncements. I kept silence and thought that he was going to restore her to him. He then said: A man goes and commits a foolish act, and then says: O Ibn 'Abbās, O Ibn 'Abbās! Allah has said: "And for those who fear Allah, He (ever) prepares a way out."<sup>1524</sup> Since you did not keep duty to Allah I do not find a way out for you. You disobeyed your Lord, and your wife was separated from you. Allah has said: "O Prophet! when you divorce women,

1520. By this she meant that Abū Rukānah was impotent.

1521. The Prophet (may peace be upon him) referred to the children of Rukānah who resembled his father. By this he meant that Abū Rukānah had his children. How can he be impotent?

1522. Qur'ān, lxxv. 1.

1523. This shows that divorce by three pronouncements in one sitting is counted a single divorce. The approved method of pronouncing three divorces is that one should pronounce each divorce separately in three periods of purity in which one did not have intercourse with her. This is the view held by traditionists. According to Abū Hanīfah, Mālik, Aḥmad and al-Shāfi'ī, a divorce by three pronouncements in one sitting shall be counted three divorces. But this view runs counter to the tradition of the Prophet (may peace be upon him) (*'Awn al-Ma'būd*, II, 226).

1524. Qur'ān, lxxv. 2.

divorce them"<sup>1525</sup> in the beginning of their waiting period.

Abū Dāwūd said: This tradition has been transmitted by Ḥumaid al-A'raj and by others from Mujāhid on the authority of Ibn 'Abbās; Shu'bah narrated it from 'Amr b. Murrah from Sa'id b. Jubair on the authority of Ibn 'Abbās; Ayyūb and Ibn Juraij both narrated it from 'Ikrimah b. Khālid, from Sa'id b. Jubair on the authority of Ibn 'Abbās; Ibn Juraij narrated it from 'Abd al-Ḥamid b. Rāfi' from 'Aṭā', from Ibn 'Abbās; al-A'mash narrated it from Mālik b. al-Ḥarith on the authority of Ibn 'Abbās; Ibn Juraij narrated it from 'Amr b. Dīnār on the authority of Ibn 'Abbās: they all said about the divorce by three pronouncements: He allowed it, and said: (Your wife) has been separated from you, similar to the tradition narrated by Ismā'il from Ayyūb from 'Abd Allah b. Kathīr.

Abū Dāwūd said: Ḥammād b. Zaid narrated it from Ayyūb from 'Ikrimah on the authority of Ibn 'Abbās. This version adds: If he said: You are divorced three times, saying in one pronouncement, it constitutes a single (divorce). Ismā'il b. Ibrāhīm narrated it from Ayyūb from 'Ikrimah: This is his ('Ikrimah's) statement. He did not mention the name of Ibn 'Abbās. He narrated it as a statement of 'Ikrimah.

Abū Dāwūd said: The opinion of Ibn 'Abbās has been mentioned in the following tradition: Aḥmad b. Šālih and Muḥammad b. Yaḥyā narrated—this is the version of Aḥmad (b. Šālih)—from 'Abd al-Razzāq, from Ma'mar, from al-Zuhri, from Abū Salamah b. 'Abd al-Raḥmān b. 'Awf and Muḥammad b. 'Abd al-Raḥmān b. Thawbān from Muḥammad b. Iyās that Ibn 'Abbās, Abū Hurairah, and 'Abd Allah b. 'Amr b. al-Āṣ were asked about a virgin who is divorced three times by her husband. They all said: She is not lawful for him until she marries a man other than her former husband.

Abū Dāwūd said: Mālik narrated from Yaḥyā b. Sa'id from Bukair b. al-Ashajj from Mu'āwiyah b. Abī 'Ayyāsh who was present on this occasion when Muhammad b. Iyās b. al-Bukair came to Ibn al-Zubair and 'Āṣim b. 'Umar. He asked them about this matter. They replied: Go to Ibn 'Abbās and Abū Hurairah; I have left them with 'Ā'ishah (Allah be pleased with her). He then narrated the rest of the tradition.

Abū Dāwūd said: The statement of Ibn 'Abbās goes: The divorce by three pronouncement separates the wife from her husband, whether the marriage has been

1525 Qur'ān, lxv. 1.

This reading of the verse in the copy of the Qur'ān of Ibn 'Abbās contradicts the established reading unanimously accepted by the Muslims. Further, this tradition shows that Ibn 'Abbās held the view that a divorce by the three pronouncements makes three and not a single divorce as the tradition of the Prophet (may peace be upon him) shows. It may be noted that another tradition shows that Ibn 'Abbās earlier held that a divorce by three pronouncements is one and not three. As his opinion is contradictory, it will not be taken into consideration. Only the tradition narrated by him on this subject shall be considered ('*Awn al-Ma'būd*, II, 227).



consummated or not; the previous husband is not lawful for her until she marries a man other than her husband. This statement is like the tradition which deals with the exchange of money. In this tradition the narrator said: Ibn 'Abbās withdrew his opinion.<sup>1526</sup>

(2193) Ṭāwūs said: A man called Abū al-Ṣahbā' used to ask Ibn 'Abbās questions frequently. He asked: Do you know that when a man divorced his wife by three pronouncement before having sexual intercourse with her, they (the people) made it a single divorce during the time of the Apostle of Allah (may peace be upon him), of Abū Bakr and in the early phase of the caliphate of 'Umar? Ibn 'Abbās said: Yes, when a man divorced his wife by three pronouncements before having sexual intercourse with her, they made it a single divorce during the time of the Apostle of Allah (may peace be upon him), of Abū Bakr, and in the early days of the caliphate of 'Umar. When he saw that the people frequently divorced (by three pronouncements), he said: Make them operative on them (i.e. on women).

(2194) Ṭāwūs said: Abū al-Ṣahbā' said to Ibn 'Abbās: Do you know that a divorce by three pronouncements was made a single one during the time of the Prophet (may peace be upon him), and of Abū Bakr and in the early days of the caliphate of 'Umar? He replied: Yes.<sup>15 7</sup>

### Chapter 727

#### ON ALLUSIONS OF DIVORCE AND ON INTENTIONS

(2195) 'Umar b. al-Khaṭṭāb reported the Apostle of Allah (may peace be upon him) as saying: Actions are to be judged only by intentions, and a man will have

1526. Ibn 'Abbās earlier held that three pronouncements of divorce in one sitting make one divorce; later on he withdrew his opinion and held that three pronouncements make three divorces and not one. This question is like the question of the exchange of money in which he also changed his opinion. Earlier he held that in the case of the exchange of money there would be no usury if the payment is made on the spot. Usury applies only in the case of loans. But he is said to have changed this opinion later on (*ʿAwn al-Ma'būd*, II, 228).

1527. Muslim recorded a tradition from Ibn 'Abbās which reads: The divorce by three pronouncements at a time was considered a single divorce during the time of the Apostle of Allah (may peace be upon him), and of Abū Bakr, and in the first two years of the caliphate of 'Umar. 'Umar said: The people made haste in the matter in which they were given time to consider. Would that we made them operative. So he made them operative (i.e. made three pronouncements of divorce as three divorces). Al-Nawawī said: This sound tradition indicates that a divorce by three pronouncements at a time is considered a single divorce. This is the opinion of 'Abd Allah b. 'Abbās, al-Zubair b. al-'Awwām, 'Abd al-Rahmān b. 'Awf, 'Alī and Ibn Mas'ūd are also reported to have held this view, according to a statement ascribed to them. According to another statement, they held a different opinion ('Ikrimah, Ṭāwūs, Muḥammad b. Ishāq and Dāwūd b. 'Alī). This view is also held

only what he intended. When one's emigration is to Allah and His Apostle, his emigration is to Allah and His Apostle; but when his emigration is to a worldly end at which he aims or to a woman whom he marries, his emigration is to that for which he emigrated.<sup>1528</sup>

(2196) 'Abd Allah b. Ka'b reported: I heard Ka'b b. Mālik. He then narrated his story about the battle of Tabūk. (Narrating the story) he added: When forty out of fifty days passed, the messenger of the Apostle of Allah (may peace be upon him) came and said: The Apostle of Allah (may peace be upon him) has commanded you to keep away from your wife. He said: So I (Ka'b b. Mālik) said: Should I divorce her or what should I do? He said: No, but only keep away from her and do not go near her. So I said to my wife: Go to your people and live with them until Allah, the Exalted, makes a decision in this matter.<sup>1529</sup>

### Chapter 728

#### ON GIVING OPTION TO WIFE

(2197) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) gave us our choice and we chose him: so that was not reckoned anything (i.e. divorce).<sup>1530</sup>

### Chapter 729

#### ON SAYING "YOUR MATTER IS IN YOUR HAND" TO WIFE

(2198) Ḥammād b. Zaid said: I asked Ayyūb: Do you know anyone who narrates the tradition narrated by al-Ḥasan about uttering the words (addressing wife).

by some of the Mālikī, Ḥanbalī and Ḥanafī jurists. The four orthodox legal scholars maintain that a divorce by three pronouncements at a time in a single sitting shall be counted three (*'Awn al-Ma'būd*, II, 228-29).

1528. This means that actions are valid by intentions. If a man divorces his wife by allusion or sign, but he does not mean divorce and he denies divorce, there will be no divorce. Intention is necessary in divorce by allusion. It is not necessary when one pronounces the word "divorce" clearly. Further, if a man divorces his wife by one pronouncement and by this he means or intends three divorces, this will be counted as three divorces according to al-Shāfi'ī, Mālik, Iḥqāq b. Rahwaih, Abū 'Ubad and 'Urwah b. al-Zubair. But Abū Ḥanīfah, Sufyān al-Thawrī, al-Awzā'ī and Aḥmad maintain that this will be taken as a single divorce (*'Awn al-Ma'būd*, II, 230).

1529 This means that if a man utters such words addressed to his wife, this will not be taken as divorce unless he intends to do so

1530. According to the majority of scholars, if a man gives option to his wife and she chooses him again, this will not be counted as divorce. 'Alī and Zaid b. Thābit are reported to have held that this will be counted as a single divorce

"Your matter is in your hand"? He replied: No, except something similar transmitted by Qatādah from Kathīr, the client of Samurah, from Abū Salamah on the authority of Abū Hurairah from the Prophet (may peace be upon him). Ayyūb said: Kathīr then came to us; so I asked him (about this matter). He replied: I never narrated it. I mentioned it to Qatādah who said: Yes (he narrated it) but he forgot.<sup>1531</sup>

(2199) Qatādah reported on the authority of al-Ḥasan: The uttering of the words "Your matter is in your hand" amounts to three pronouncements of divorce.

### Chapter 730

#### ON ABSOLUTE DIVORCE

(2200) Nāfi' b. 'Ujair b. 'Abd Yazīd b. Rukānah reported: Rukānah b. 'Abd Yazīd divorced his wife Suhaimah absolutely. The Prophet (may peace be upon him) was informed about this matter. He said to him (the Prophet): I swear by Allah that I meant it to be only a single utterance of divorce. The Apostle of Allah (may peace be upon him) said: You swear by Allah that you meant it to be a single utterance of divorce? Rukānah said: I swear by Allah that I meant it to be only a single divorce. The Apostle of Allah (may peace be upon him) restored her to him. Then he divorced her the second time in the time of 'Umar and the third time in the time of 'Uthmān.<sup>1532</sup>

Abū Dāwūd said: This tradition contains the words of Ibrāhīm in its beginning and the words of Ibn al-Sarḥ in the end.

(2201) The tradition mentioned above has also been transmitted by Rukānah b. Yazīd from the Prophet (may peace be upon him) through a different chain of narrators.

(2202) 'Alī b. Yazīd b. Rukānah reported on the authority of his father from his grandfather that he (Rukānah) divorced his wife absolutely; so he came to the Apostle of Allah (may peace be upon him). He asked (him): What did you intend? He said: A single utterance of divorce. He said: Do you swear by Allah? He replied: I swear by Allah. He said: It stands as you intended.

1531. Al-Ḥasan narrated a tradition which says that if a man utters the words "Your matter is in your hand," this will amount to a divorce by three pronouncements. This is also supported by a tradition narrated by Kathīr who forgot. There is a difference of opinion on this question. According to 'Umar and Ibn Mas'ūd and some successors, uttering this phrase to wife amounts to one pronouncement of divorce. 'Uthmān b. 'Affān and Zaid b. Thābit maintain that it depends on the decision of the wife. Sufyān and Abū Ḥanīfah hold that this would amount to one pronouncement of divorce. Mālik and Aḥmad hold that it depends on the decision of the wife ('*Awn al-Ma'būd*, II, 231).

1532. This also shows that a divorce by three pronouncements at a time constitutes a single divorce, as the Prophet (may peace be upon him) restored the wife to Rukānah.

Abū Dāwūd said : This tradition is sounder than that of Ibn Juraij that Rukānah divorced his wife by three pronouncements, for they are the members of his family and they are more aware of him. The tradition of Ibn Juraij has been narrated by some children of Abū Rāfi' from 'Ikrimah on the authority of Ibn 'Abbās.

### Chapter 731

#### ON A NOTION OF DIVORCE.

(2203) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Allah has ignored for my community what comes to their mind, so long as they do not act or pronounce words to that effect. <sup>1533</sup>

### Chapter 732

#### ON A MAN WHO ADDRESSES HIS WIFE AS "MY SISTER"

(2204) Tamīmah al-Hujainī said : A man said to his wife : O my younger sister ! The Apostle of Allah (may peace be upon him) said : Is she your sister ? He (the Prophet) disliked it and prohibited saying so. <sup>1534</sup>

(2205) Abū Tamīmah reported from a man of his tribe : The Prophet (may peace be upon him) heard a man say his wife ; O my younger sister ! So he prohibited him (addressing his wife in this manner).

Abū Dāwūd said : This tradition has also been transmitted by 'Abd al-'Azīz b. al-Mukhtār from Khālid from Abū 'Uthmān from Abū Tamīmah from the Prophet (may peace be upon him). This has also been narrated by Shu'bah from Khālid from a man on the authority of Abū Tamīmah from the Prophet (may peace be upon him).

(2206) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Abraham (peace be upon him) never told a lie except on three occasions, twice for the sake of Allah. Allah quoted his words (in the Qur'an) : "I am indeed sick" <sup>1535</sup> and "Nay, this was done by—this is their biggest one." <sup>1536</sup> Once he was passing through the land of a tyrant (king). He stayed there in a place. People went to the tyrant and informed him saying : A man has come down here. He has a most beautiful woman with him. So he sent for him (Abraham) and asked about her. He said : She is my

1533 This means that if the idea of doing an act comes to one's mind but one does not do it, that will not be counted. If a man has the notion of divorcing his wife but he does not pronounce it, there will be no divorce. This opinion is unanimously held by jurists.

1534. It is forbidden to address one's wife as one's sister or mother. This will not amount to *zihar*, if he does not intend so. If by saying this word, i.e. my sister, he intends *zihar* (to call wife as mother), that will apply to him. He will have to bear the punishment prescribed for *zihar*.

1535. Qur'an, xxxvii. 89.

1536. Qur'an, xxi. 63.

sister. When he returned to her, he said: He asked me about you, and I informed him that you were my sister. Today there is no believer except me and you. You are my sister in the Book of Allah (i.e. sister in faith). So do not belie me before him. The narrator then narrated the rest of the tradition.<sup>1537</sup>

Abū Dāwūd said: A similar tradition has also been transmitted by Shu'aib b. Abī Ḥamzah from Abī al-Zinād from al-A'raj on the authority of Abū Hurairah from the Prophet (may peace be upon him).

### Chapter 733

#### ON *ZIHĀR* (TO CONSIDER INTERCOURSE WITH WIFE AS UNLAWFUL AS INTERCOURSE WITH ONE'S MOTHER)

(2207) Salamah b. Ṣakhr al-Bayāḍī said: I was a man who was more given than others to sexual intercourse with women. When the month of Ramaḍān came, I feared lest I should have intercourse with my wife, and this evil should remain with me till the morning. So I made my wife like my mother's back to me till the end of Ramaḍān.<sup>1538</sup> But one night when she was waiting upon me, something of her was disclosed. Suddenly I jumped upon her. When the morning came I went to my people and informed them about this matter. I said: Go along with me to the Apostle of Allah (may peace be upon him). They said: No, by Allah. So I went to the Prophet (may peace be upon him) and informed him of the matter. He said: Have you really committed it, Salamah? I said: I committed it twice, Apostle of Allah. I am content with the Commandment of Allah, the Exalted; so take a decision about me what Allah has shown you. He said: Free a slave. I said: By Him Who sent you with truth, I do not possess a neck other than this: and I struck the surface of my neck. He said: Then fast two consecutive months. I said: Whatever I suffered is due to fasting. He said: Feed sixty poor people with a wasq<sup>1539</sup> of dates. I said: By Him Who sent you with truth, we passed the night hungry; there was no food with us. He said: Then

1537. Narrating the story of Abraham, the Qur'ān states that when the people of Abraham were going to a fair outside the city, they wanted to take him with them. But he refused to accompany them by making an excuse that he was indisposed. He wanted to destroy the idols in their temple in their absence. When they went out, he destroyed all the idols except the biggest one. On their return they asked him about this incident. He pointed to the biggest idol meaning to ask him whether he had destroyed the idols. This was a sort of allusion and not a lie. Similarly, he called his wife sister, but by it he meant sister in religion.

1538. The phrase is said to have been used as a kind of divorce in pre-Islamic Arabia. This means that a husband by uttering this phrase considers intercourse with his wife as unlawful as intercourse with his mother.

1539. Wasaq measures sixty ṣā's, meaning a camel-load of dates.



go to the collector of *ṣadaqah* of Banū Zuraiq; he must give it to you. Then feed sixty poor people with a wasq of dates; and you and your family eat the remaining dates. Then I came back to my people, and said (to them): I found with you poverty and bad opinion; and I found with the Prophet (may peace be upon him) prosperity and good opinion. He has commanded me to give alms to you.<sup>1540</sup>

Ibn al-'Alā' added: Ibn Idrīs said: Bayāḍah is a sub-clan of Banū Zuraiq.

(2208) Khuwailah daughter of Mālik b. Tha'labah said: My husband Aws b. Ṣāmit pronounced the words: You are like my mother. So I came to the Apostle of Allah (may peace be upon him) complaining to him against my husband. The Apostle of Allah (may peace be upon him) disputed with me and said: Keep duty to Allah; he is your cousin. I continued (complaining) until the Qur'ānic verse came down: "Allah hath heard the saying of her that disputeth with thee concerning her husband. . ."<sup>1541</sup> till the prescription of expiation. He then said: He should set free a slave. She said: He cannot afford. He said: He should fast for two consecutive months. She said: Apostle of Allah, he is an old man; he cannot keep fasts. He said: He should feed sixty poor people. She said: He has nothing which he may give in alms. At the moment an *'araq* (i.e. a date-basket holding fifteen or sixteen ṣā's) was brought to him. I said: I shall help him with another date-basket (*'araq*). He said: You have done well. Go and feed sixty poor people on his behalf, and return to your cousin. The narrator said: *'Araq* holds sixty ṣā's of date.<sup>1542</sup>

Abū Dāwūd said: She atoned on his behalf without seeking his permission.<sup>1543</sup>

Abū Dāwūd said: This man (Aws b. al-Ṣāmit) is the brother of 'Ubādah b. al-Ṣāmit.

(2209) A similar tradition has been transmitted by Ibn Ishāq with a different chain of narrators. But in this version he said: *'araq* is a date-basket holding thirty ṣā's.

Abū Dāwūd said: This version is sounder than that of Yahyā b. Ādam.

(2210) Another version transmitted by Abū Salamah b. 'Abd al-Rahmān has: *'Araq* is a date-basket holding fifteen ṣā's.

1540. The expiation for *ḡhār* is freeing a slave, or feeding sixty poor people, or keeping sixty fasts consecutively. According to Mālik and al-Shāfi'ī, it is necessary to feed sixty poor people. Abū Ḥanīfah holds that it is sufficient to feed a poor man for sixty days. He is also of the view that while feeding sixty poor people, each one of them must have a ṣā' of dates or maize or oats or raisins or half a ṣā' of wheat. Al-Shāfi'ī maintains that it is sufficient to give each of them one mudd.

1541. Qur'ān lviii. 1

1542. This is not correct. *'Araq* is a date-basket which holds fifteen ṣā's.

1543. The Prophet (may peace be upon him) permitted her to atone for breaking the vow on behalf of her husband without his permission. It is permissible if one does so provided the other person accords permission afterwards.

(2211) The tradition mentioned above has also been transmitted by Sulaimān b. Yasār. This version has: Then some dates were brought to the Apostle of Allah (may peace be upon him) and he gave them to him. They measured about fifteen ṣā's. He said: Give them in alms. He said: Is there anyone more needy than I and my family, Apostle of Allah? The Apostle (may peace be upon him) said: Eat them, you and your family.

Abū Dāwūd said: I recited to Muḥammad b. Wazīr al-Miṣrī and said to him: Bishr b. Bakr narrated it to you, and al-Auzā'ī narrated it to us, and he said: 'Aṭā' narrated it to us on the authority of Aus, brother of 'Ubādah b. al-Ṣāmit: The Prophet (may peace be upon him) gave him fifteen ṣā's of wheat to feed sixty poor people.

Abū Dāwūd said: 'Aṭā' did not meet Aws (o. al-Ṣāmit) who was one of the people of Badr and died in the early days of Islam. This version is, therefore, *mursal* (i.e. a successor narrated it directly from the Prophet; the link of the Companions is missing). This has been narrated by al-Auzā'ī from 'Aṭā' from Aus.

(2212) Hishām b. 'Urwah said: Khawlah was the wife of Aus b. al-Ṣāmit; he was a man immensely given to sexual intercourse. When his desire for intercourse was intensified, he made his wife like his mother's back. So Allah, the Exalted, sent down Qur'ānic verses relating to expiation for *ẓihār*.<sup>1544</sup>

(2213) A similar tradition has been transmitted by 'Ā'ishah through a different chain of narrators.

(2214) 'Ikrimah said: A man made his wife like the back of his mother. He then had intercourse with her before he atoned for it. He came to the Prophet (may peace be upon him) and informed him of this matter. He asked (him): What moved you to the action you have committed? He replied: I saw the whiteness of her shins in moonlight. He said: Keep away from her until you expiate for your deed.

(2215) 'Ikrimah said: A man made his wife like the back of his mother. When he saw the illumination of her shin in moonlight, he had intercourse with her. He came to the Prophet (may peace be upon him). He ordered him to atone for it.

(2216) A similar tradition has been transmitted by Ibn 'Abbās from the Prophet (may peace be upon him) through a different chain of narrators. This version does not mention the word "shin".

(2217) A tradition similar to that of Sufyān has been narrated by 'Ikrimah from the Prophet (may peace be upon him) through a different chain of narrators.

Abū Dāwūd said: I heard Muḥammad b. 'Isā narrating this tradition who said: Mu'tamar narrated it to us; and he (Mu'tamar) said: I heard al-Ḥakam b. Abān narrating this tradition. He did not mention the name of Ibn 'Abbās.

Abū Dāwūd said: Al-Ḥusain b. Huraith wrote to me saying: Al-Faḍl b. Mūsā

narrated from Ibn 'Abbās to the same effect from the Prophet (may peace be upon him).

### Chapter 734

#### SEPARATING FROM WIFE FOR COMPENSATION (KHUL')<sup>1545</sup>

(2218) Thawbān reported the Apostle of Allah (may peace be upon him) as saying: If any woman asks her husband for divorce without some strong reason, the odour of Paradise will be forbidden to her.

(2219) 'Amrah daughter of 'Abd al-Raḥmān b. Sa'd b. Zurārah reported on the authority of Ḥabībah daughter of Sahl al-Anṣārīyyah: She (Ḥabībah) was the wife of Thābit b. Qais b. Shimmās. The Apostle of Allah (may peace be upon him) came out one morning and found Ḥabībah by his door. The Apostle of Allah (may peace be upon him) said: Who is this? She replied: I am Ḥabībah daughter of Sahl. He asked: What is your case? She replied: I and Thābit b. Qais, referring to her husband, cannot live together. When Thābit b. Qais came, the Apostle of Allah (may peace be upon him) said to him: This is Ḥabībah daughter of Sahl, and she has mentioned (about you) what Allah wished to mention. Ḥabībah said: Apostle of Allah, all that he gave me is with me. The Apostle of Allah (may peace be upon him) said to Thābit b. Qais: Take it from her. So he took it from her, and she lived among her people (relatives).<sup>1546</sup>

(2220) 'Ā'ishah said: Ḥabībah daughter of Sahl was the wife of Thābit b. Qais b. Shimmās. He beat her and broke some of her part. So she came to the Prophet (may peace be upon him) after morning, and complained to him against her husband. The Prophet (may peace be upon him) called on Thābit b. Qais and said (to him): Take a part of her property and separate yourself from her. He asked: Is that right, Apostle of Allah? He said: Yes. He said: I have given her two gardens of mine as a dower, and they are already in her possession. The Prophet (may peace be upon him) said: Take them and separate yourself from her.

(2221) Ibn 'Abbās said: The wife of Thābit b. Qais separated herself from him

1545. *Khul'* is a method of divorce by mutual consent. The wife either forgoes her dower or makes some payment to the husband.

1546. This tradition shows that the husband is not required to provide dwelling for a wife who separates herself giving a compensation to her husband. Further, this also indicates that *Khul'* is a repudiation of marriage and not divorce. Had it been a divorce, the wife should have observed the formalities of divorce. This view is held by Ibn Abbās, Ṭawūs 'Ikrimah, al-Shāfi'i (in one statement), Aḥmad, Ishāq and Abū Thawr. All, 'Uthmān and Ibn Mas'ūd are reported to have said that *Khul'* amounts to an irrevocable divorce. This is also held by al-Ḥasan, Ibrāhīm al-Nakha'i, 'Aṭā', Ibn al-Musayyab, Shuraiḥ, al-Sha'bi, Mujāhid, Maḥbūl, al-Zuhri, Saḍyān, Abū Ḥanīfah, Mālik, al-Auzā'i and al-Shāfi'i (in one statement) (*Awn al-Ma'būd*, II, 236).

for a compensation. The Prophet (may peace be upon him) made her waiting period a menstrual course.<sup>1547</sup>

Abū Dāwūd said: This tradition has been transmitted by 'Abd al-Razzāq from Ma'mar from 'Amr b. Muslim from 'Ikrimah from the Prophet (may peace be upon him) in a *musnal* form (i.e. missing the link of the Companion).

(2222) Ibn 'Umar said: The waiting period of a woman who separates herself from her husband for compensation is a menstrual period.

### Chapter 735

#### ON A SLAVE-WOMAN WHO IS EMANCIPATED WHILE SHE IS THE WIFE OF A FREE MAN OR A SLAVE

(2223) Ibn 'Abbās said: Mughīth was a slave. He said: Apostle of Allah, make intercession for me to her (Barīrah). The Apostle of Allah (may peace be upon him) said: O Barīrah, fear Allah; he is your husband and father of your child. She said: Apostle of Allah, do you command me for that? He said: No, I am only interceding. Then tears were falling down on his (her husband's) cheeks. The Apostle of Allah (may peace be upon him) said to 'Abbās: Are you not surprised with the love of Mughīth for Barīrah and her hatred for him.<sup>1548</sup>

(2224) Ibn 'Abbās said: The husband of Barīrah was a black slave, called Mughīth. The Prophet (may peace be upon him) gave her choice, and commanded her to observe the waiting period.<sup>1549</sup>

(2225) While relating the tradition about Barīrah 'A'ishah said: Her husband

1547. There is a difference of opinion amongst jurists about the waiting period of a woman who separates herself from her husband for a compensation (*al-mut'*). The majority is of opinion that her waiting period is like that of a divorced woman. This is the view of al-Thawrī, Abū Ḥanīfah, Aḥmad and Ishāq. Some of the Companions hold that her waiting period is one menstrual course (*Awn al-Ma'bad*, I, 237).

1548. Barīrah was a slave-woman of 'A'ishah. She was the wife of Mughīth who was a slave. When 'A'ishah set her free, she had the choice of repudiating the marriage tie. As Mughīth loved her, he did not want separation. He complained to the Prophet (may peace be upon him) who only recommended that she should retain the marriage tie. But she did not do so. This shows that a slave-girl after manumission has the choice of repudiating the marriage. The husband cannot force her to remain his wife.

Al-Nawawī said: Scholars agree that when a slave-woman is set free and she is the wife of a slave, she will have the choice of repudiating or keeping the marriage tie. If the husband is a free man, she will have no choice according to Mālik, al-Shāfi'i and the majority of scholars. Abū Ḥanīfah maintains that she will have the option even in the case of a free husband (*Awn al-Ma'bad*, I, 237).

1549. The Prophet (may peace be upon him) ordered her to observe three menstrual periods (divorced women).

was a slave ; so the Prophet (may peace be upon him) gave her choice. She chose herself. Had he been a free man, he would not have given her choice.

(2226) 'Ā'ishah said : The Prophet (may peace be upon him) gave her choice. Her husband was a slave.

### Chapter 736

#### THE VIEW THAT BARĪRAH'S HUSBAND WAS A FREE MAN

(2227) 'Ā'ishah said : Barīrah's husband was a free man when she was emancipated. She was given choice. She said : I do not like to remain with him. I have such and such (grievances).<sup>1550</sup>

### Chapter 737

#### HOW LONG WILL THE CHOICE BE VALID?

(2228) 'Ā'ishah said : Barīrah was emancipated, and she was the wife of Mughīth, a slave of Āl Abī Aḥmad. The Apostle of Allah (may peace be upon him) gave her choice, and said to her : If he has intercourse with you, then there is no choice for you.<sup>1551</sup>

### Chapter 738

#### ON TWO SLAVES WHO ARE EMANCIPATED TOGETHER : WILL HIS WIFE HAVE THE RIGHT OF CHOICE?

(2229) Al-Qāsim said : 'Ā'ishah intended to set free two slaves of her who were spouses. She, therefore, asked the Prophet (may peace be upon him) about this matter.

1550. From this tradition Abū Ḥanīfah argues that a slave-girl has the choice even if the husband is a free man. But it may be noted that this tradition is contradictory to the one narrated by Ibn 'Abbās. Further, the words "Barīrah's husband was a free man" were added by al-Aswad. Another version of al-Aswad says that Mughīth was a slave. Thus the tradition narrated by al-Aswad is self-contradictory. But the tradition narrated by Ibn 'Abbās has only one version. Al-Bukhārī observes that the version of al-Aswad has a broken chain, while the tradition narrated by Ibn 'Abbās is sounder (*'Awn al-Ma'būd*, II, 237).

1551. This means that the choice will be valid in case she chooses immediately after emancipation. If the husband has intercourse with her after her emancipation, she will lose her right. This is the view held by Mālik, Abū Ḥanīfah, Aḥmad and al-Shāfi'ī (in one statement). Another view is ascribed to al-Shāfi'ī that choice will remain valid for three days. Similarly, the Ḥanafīs are reported to have maintained that choice will remain valid till the end of her meeting or till the end of the meeting of the judge. But these views obviously contradict this tradition. The sound view is what this tradition says (*'Awn al-Ma'būd*, II, 238).



He commanded to begin with the man before the woman.<sup>1552</sup>

The narrator Naṣr said : Abū 'Alī al-Ḥanafī reported it to me on the authority of Ubaid Allah.

### Chapter 739

#### ON GIVING CHOICE IN CASE ONE OF THE SPOUSES EMBRACES ISLAM

(2230) Ibn 'Abbās said : A man came after embracing Islam during the time of the Apostle of Allah (may peace be upon him). Afterwards his wife came after embracing Islam. He said : Apostle of Allah, she embraced Islam along with me ; so restore her to me.<sup>1553</sup>

(2231) Ibn 'Abbās said : A woman embraced Islam during the time of the Apostle of Allah (may peace be upon him) ; she then married. Her (former) husband then came to the Prophet (may peace be upon him) and said : Apostle of Allah, I have already embraced Islam, and she had the knowledge about my Islam. The Apostle of Allah (may peace be upon him) took her away from her latter husband and restored her to her former husband.<sup>1554</sup>

### Chapter 740

#### IF HUSBAND EMBRACES ISLAM LATER ON, TILL WHAT TIME CAN WIFE BE RESTORED TO HIM?

(2232) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) restored his daughter Zainab to Abū al-'Āṣ on the basis of the previous marriage, and he did not do anything afresh.<sup>1555</sup>

1552. The option for repudiating the marriage tie is valid in case the slave-woman is set free. If the husband is set free, there will be no option. This also shows that if the husband is a free man, there will be no choice.

1553. This tradition indicates that if husband and wife embrace Islam together at the same moment the wife will not be given any choice. Their previous marriage will be valid, provided they are not within the prohibited degrees of relationship.

1554 This shows that if the husband embraces Islam and his wife knows about his Islam, she will remain his wife. If she marries another man, the marriage will be void.

1555. Zainab, the daughter of the Prophet (may peace be upon him), was the wife of Abū al-'Āṣ. When she embraced Islam, she waited till he also became Muslim after two or six years. The Prophet (may peace be upon him) restored her to him and did not solemnise the marriage afresh. Ibn al-Qayyim said in *Zād al-Ma'ād* : In such a case the waiting period was not taken into consideration. No tradition indicates that the Prophet (may peace be upon him) took the waiting period into account. Had it been so, the Prophet (may peace be upon him) would have asked the woman

Muḥammad b. 'Amr said in his version : After six years. Al-Ḥasan b. 'Alī said : After two years.

### Chapter 741

#### ON A MAN WHO EMBRACES ISLAM WHILE HE HAS MORE THAN FOUR WIVES OR TWO SISTERS

(2233) Al-Ḥārith b. Qais al-Asadī said : I embraced Islam while I had eight wives. So I mentioned it to the Prophet (may peace be upon him). The Prophet (may peace be upon him) said : Select four of them.<sup>1556</sup>

Abū Dāwūd said : This tradition has also been narrated to us by Aḥmad b. Ibrāhīm from Hushaim. He said : Qais b. al-Ḥārith instead of al-Ḥārith b. Qais. Aḥmad b. Ibrāhīm said : This is correct, i.e. Qais b. al-Ḥārith.

(2234) The tradition mentioned above has also been transmitted by Qais b. al-Ḥārith through a different chain of narrators to the same effect.

(2235) Al-Ḍaḥḥāk b. Flrūz reported on the authority of his father : I said : Apostle of Allah, I have embraced Islam and two sisters are my wives. He said : Divorce any one of them you wish.<sup>1557</sup>

### Chapter 742

#### WHEN ONE OF THE PARENTS EMBRACES ISLAM, WHO WILL TAKE THE CHILDREN?

(2236) 'Abd al-Ḥamīd b. Ja'far reported from his father on the authority of his about the expiry of her waiting period. If embracing of Islam by one of the spouses could be the cause of separation, that would have been an irrevocable divorce, and the husband would have no right to take her back. The decision of the Prophet (may peace be upon him) shows that the marriage remains suspended. If husband embraces Islam before the expiry of the waiting period, he can take her back in marriage. If her waiting period expires, she can marry another man if she likes, or she can wait till he embraces Islam. If he becomes a Muslim there is no need of remarriage (*'Awn al-Ma'būd*, II, 239).

1556. If a non-Muslim embraces Islam and he has more than four wives, he may have four of them. Only four wives are allowed in Islam. This is the view held by Mālik, al-Shāfi'ī and Aḥmad. Abū Ḥanīfah and Sufyān al-Thawrī maintain that he can have the first four of them in case he married them severally one after another. If he married them at a time in a single solemnisation of marriage they will be separated from him (*'Awn al-Ma'būd*, II, 239-40).

1557. Al-Shāfi'ī, Mālik and Aḥmad maintain that if a man embraces Islam and two sisters are his wives, and they also become Muslim along with him, he can retain any one of them. It matters little whom he married first. Abū Ḥanīfah is of view that if he married them together at a time, he is not allowed to retain any one of them. If he married them consecutively, he can retain the first of them. The former view is sound as the Prophet (may peace be upon him) did not ask him any details (*'Awn al-Ma'būd*, II, 240).

grandfather Rāfi' b. Sinān that he (Rāfi' b. Sinān) embraced Islam and his wife refused to embrace Islam. She came to the Prophet (may peace be upon him) and said: My daughter; she is weaned or about to wean. Rāfi' said: My daughter. The Prophet (may peace be upon him) said to him: Be seated on a side. And he said to her: Be seated on a side. He then seated the girl between them, and said to them: Call her. The girl inclined to her mother. The Prophet (may peace be upon him) said: O Allah! guide her. The daughter then inclined to her father, and he took her.<sup>1558</sup>

### Chapter 743

#### INVOKING CURSES (*LI'ĀN*)

(2237) Sahl b. Sa'd al-Sā'idī said that 'Uwaimir b. Ashqar al-'Ajlanī came to 'Āṣim b. 'Adī and said to him: 'Āṣim, tell me about a man who finds a man along with his wife. Should he kill him and then be killed by you, or how should he act? Ask the Apostle of Allah (may peace be upon him), 'Āṣim, for me about it. 'Āṣim then asked the Apostle of Allah (may peace be upon him) about it. The Apostle of Allah (may peace be upon him) disliked the question and denounced it. What 'Āṣim heard from the Apostle of Allah (may peace be upon him) fell heavy on him. When 'Āṣim returned to his family, 'Uwaimir came to him and asked: 'Āṣim, what did the Apostle of Allah (may peace be upon him) say to you? 'Āṣim replied: You did not do good to me. The Apostle of Allah (may peace be upon him) disliked the question that I asked him. Thereupon 'Uwaimir said: I swear by Allah, I shall not leave until I ask him about it. So 'Uwaimir came to the Apostle of Allah (may peace be upon him) while he was sitting in the midst of the people. He said: Apostle of Allah, tell me about a man who finds a man along with his wife. Should he kill him and then be killed by you, or how should he act? The Apostle of Allah (may peace be upon him) said: A revelation has been sent down about you and your wife,<sup>1559</sup> so go away and bring her. Sahl said: So we cursed one another while I was along with the people who were with the Apostle of Allah (may peace be upon him). Then when they finished, 'Uwaimir said: I shall have lied against her, Apostle of Allah, if I keep her. He pronounced her divorce three times before the Apostle of Allah (may peace be upon

<sup>1558</sup>. This shows that if one of the parents embraces Islam, the child will belong to the Muslim. This is the view held by al-Shāfi'ī. The Ḥanafīs are of opinion that if the spouses are separated by divorce and wife is an unbeliever, the mother will be entitled to her child so long as she does not marry. In this case there is no distinction between a Muslim and a non-Muslim (*'Awn al-Ma'būd*, 11, 240).

<sup>1559</sup>. Qur'ān, xxiv. 6.

him) commanded him (to do so).<sup>1560</sup>

Ibn Snihāb said: Then this became the method of invoking curses.<sup>1561</sup>

(2238) 'Abbās b. Sahl reported on the authority of his father: The Prophet (may peace be upon him) said to 'Āṣim b. 'Adī: Keep the woman with you till she begets the child.<sup>1562</sup>

(2239) Sahl b. Sa'd al-Sā'idī said: I attended the invoking of the curses with the Apostle of Allah (may peace be upon him) when I was fifteen. He then narrated the rest of the tradition. In this version he said: She then came out pregnant, and the child was ascribed to its mother.<sup>1563</sup>

(2240) Sahl b. Sa'd reported the Apostle of Allah (may peace be upon him) as saying—in the tradition of the spouses who invoked curses to each other: Look, if she bears a child which has very black eyes, large buttocks, I cannot but imagine that he (i.e. 'Uwaimir) has spoken the truth; but if she bears a reddish child like the lizard with red spots (*waḥarāh*), I cannot imagine that 'Uwaimir has lied against her. She gave birth to a child (like that described by the Prophet) in a detestable manner.

(2241) The tradition mentioned above has also been transmitted by Sahl b. Sa'd al-Sā'idī through a different chain of narrators. This version adds: The child was attributed to its mother.

(2242) This tradition has also been transmitted by Sahl b. Sa'd through a different chain of narrators. This version has: He divorced her three times before the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) implemented it, and what is done before the Prophet (may peace be upon him) is *sunnah* (model behaviour of the Prophet).

Sahl said: I attended this before the Apostle of Allah (may peace be upon him). Afterwards the *sunnah*<sup>1564</sup> about those who invoked curses on each other was established that they (the spouses) were separated from each other and they would never be united.

(2243) Sahl b. Sa'd said: The version of Musaddad has: I witnessed the invoking of curses by the two spouses during the lifetime of the Apostle of Allah (may peace

1560. If a man finds another man with his wife and he has no witness to testify the adultery, both of them should invoke curses on each other as required by the Qur'ānic verse xxiv 6. This should be done five times. When the invoking of curses is finished, they will be separated from each other.

1561. This means that after this incident husband and wife were separated from each other after invoking curses. According to Mālik and al-Shāfi'ī, the separation was effected by invoking curses. Abū Ḥanīfah maintains that the judge (i.e. the court) should separate them.

1562. This shows that it is permissible to invoke curses while the woman is pregnant. After the invoking of curses is finished, one can keep the woman till she delivers the child.

1563. After the separation of the spouses the child will be attributed to its mother.

1564. *Sunnah* here refers to the established practice or the recognised mode of *ḥādīth* means that thenceforth it was generally established to separate the spouses from each other.

be upon him) when I was fifteen years old. When they finished invoking curses, the Apostle of Allah (may peace be upon him) separated them from each other. Here ends the version of Musaddad. Others said: He was present when the Prophet (may peace be upon him) separated the spouses who invoked curses on each other. The man (Sahl) said: I shall have lied against her, Apostle of Allah, if I keep her.<sup>1565</sup>

Abū Dāwūd said: Some narrators did not mention the word, '*alaiha* (against her).

Abū Dāwūd said: No one supported Ibn 'Uyainah that he separated the spouses who invoked curses.

(2244) The tradition mentioned above has also been transmitted by Sahl b. Sa'd through a different chain of narrators. This version has: She was pregnant; he denied her pregnancy from him. So her son was attributed to her. In the law of succession the practice (*sunnah*) was established that the son gets a share in the inheritance of his mother and the mother gets a share in the inheritance of her son according to the shares prescribed by Allah, the Exalted.

(2245) 'Abd Allah (b. Mas'ūd) said: We were in the mosque on the night of a Friday; suddenly a man from the *Anṣār* entered the mosque, and said: If a man finds a man along with his wife, and declares (about her adultery), you will flog him, or if he kills, you will kill him, or if he keeps silence, he will keep silence in anger. I swear by Allah, I shall ask the Apostle of Allah (may peace be upon him) about it. On the next day he came to the Apostle of Allah (may peace be upon him) and said: If a man finds a man along with his wife and declares (about her adultery), you will flog him, or if he kills, you will kill him, or if he keeps silence, he will keep silence in anger. He said: O Allah, disclose. He kept on praying until the verses regarding invoking curses (*li'ān*) came down: "As for those who accuse their wives but have no witnesses except themselves".<sup>56</sup> So the man was first involved in this trial from among the people. He and his wife came to the Apostle of Allah (may peace be upon him). They invoked curses on each other. The man bore witness before Allah four times that the thing he said was indeed true. He then invoked curse of Allah on him the fifth time if he was a liar. She then wanted to invoke curses of Allah on him. The Prophet (may peace be upon him) said: Do not do that. But she refused, and did so (i.e. invoked curses). When they returned, he said: Perhaps she will give birth to a black child with curly hair.

(2246) Ibn 'Abbās said: Hilāl b. Umayyah accused his wife in the presence of the Prophet (may peace be upon him) of having committed adultery with Sharik b.

<sup>1565</sup> According to Mālik and al-Shāfi'i, the spouses are separated from each other when the woman finishes invoking curses, without the decision of a judge. According to Abū Ḥanīfah, it is necessary that the judge should declare their separation.

<sup>1566</sup> Qur'ān, xxiv. 6.



Saḥmā'. The Prophet (may peace be upon him) said: Produce evidence or you must receive punishment on your back. He said: Apostle of Allah! when one of us sees a man having intercourse with his wife, should he go and seek evidence? But the Prophet (may peace be upon him) merely said: You must produce evidence or receive punishment on your back. Hilāl then said: By Him Who sent you with the Truth, I am speaking truly. May Allah send down something which will free my back from punishment. Then the following Qur'ānic verses were revealed: "And those who make charges against their spouses but have no witnesses except themselves," reciting till he reached, "one of those who speak the truth."<sup>1567</sup> The Prophet (may peace be upon him) then returned and sent for them, and they came (to him). Hilāl b. Umayyah stood up and testified and the Prophet (may peace be upon him) was saying: Allah knows that one of you is lying. Will one of you repent? Then the woman got up and testified, but when she was about to do it a fifth time saying that Allah's anger be upon her if he was one of those who spoke the truth, they said to her: This is the deciding one. Ibn 'Abbās said: She then hesitated and drew back so that we thought that she would withdraw (what she said); but thereafter she said: I shall not disgrace my people for ever, and went on (with her declaration). The Prophet (may peace be upon him) said: Look and see whether she gives birth to a child with eyes looking as if they have antimony in them, wide buttocks and fat legs, if she did, Sharīk b. Saḥmā' will be its father. She then gave birth to a child of a similar description. The Prophet (may peace be upon him) thereupon said: If it were not for what has already been stated in Allah's Book, I would have dealt severely with her.<sup>1568</sup>

Abū Dāwūd said: This tradition has been transmitted by the people of Medina alone. They narrated the tradition of Hilāl on the authority of Ibn Bashshār.

(2247) Ibn 'Abbās said: When the Prophet (may peace be upon him) ordered a man and his wife to invoke curses on each other, he ordered a man to put his hand on his mouth when he came to the fifth utterance, saying that it would be the deciding one.<sup>1569</sup>

(2248) Ibn 'Abbās said: Hilāl b. Umayyah was one of three persons whose repentance was accepted by Allah.<sup>1570</sup> One night he returned from his land and

1567. Qur'ān, xxiv 6-9.

1568. This means that if the Qur'ān did not prohibit inflicting punishment on those who invoke curse of Allah on each other in the case of accusation of adultery, the Prophet would have punished the woman severely, as she committed it surely (*Awn al-Ma'būd*, II, 243).

1569. As invoking curses to one another causes the anger of Allah, the Prophet asked him to stop the husband from cursing to abstain from Allah's wrath. If one of the spouses is actually a liar, he or she is accursed by Allah.

1570. When the Prophet (may peace be upon him) went out for the battle of Tabūk, three Companions remained behind in Medina. They did not participate in the battle without any valid

found a man along with his wife. He witnessed with his eyes and heard with his ears. He did not threaten him till the morning. Next day he went to the Apostle of Allah (may peace be upon him, in the morning, and said: Apostle of Allah! I came to my wife at night and found a man along with her. I saw with my own eyes and heard with my own ears. The Apostle of Allah (may peace be upon him) disliked what he described and he took it seriously. Thereupon the following Qur'ānic verse came down: "And those who make charges against their spouses but have no witnesses except themselves, let the testimony of one of them. . . ." <sup>1571</sup> When the Apostle of Allah (may peace be upon him) came to himself (after the revelation ended), he said: Glad tidings to you. Hilāl; Allah, the Exalted, has made ease and a way out for you. Hilāl said: I expected that from my Lord. The Apostle of Allah (may peace be upon him) said: Send for her. She then came. The Apostle of Allah (may peace be upon him) recited (the verses) to them, and he reminded them and told them that the punishment in the next world was more severe than that in this world. Hilāl said: I swear by Allah, I spoke the truth against her. She said: He told a lie. The Apostle of Allah (may peace be upon him) said: Apply the method of invoking curses on one another. Hilāl was told: Bear witness. So he bore witness before Allah four times that he spoke the truth. When he was about to utter a fifth time, he was told: Hilāl, fear Allah, for the punishment in this world is easier than that in the next world; and this is the deciding one, that will surely cause punishment to you. He said: I swear by Allah, Allah will not punish me for this (act), as He did not cause me to be flogged for this (act). So he bore witness a fifth time invoking the curse of Allah on him if he was of those who tell a lie. Then the people said to her: Testify. So she gave testimony before Allah that he was a liar. When she was going to testify a fifth time, she was told: Fear Allah, for the punishment in this world is easier than that in the next world. This is the deciding one that will surely cause punishment to you. She hesitated for a moment, and then said: By Allah, I will not disgrace my people. So she testified a fifth time invoking the curse of Allah on her if he spoke the truth. The Apostle of Allah (may peace be upon him) separated them from each other, and decided that the child would not be attributed to its father. Neither she nor her child will be accused of adultery. He who accuses her or her child will be liable to punishment. He also decided that there will be no dwelling and maintenance for her (from the husband), as they were separated without divorce, and death. He then said: If she gives birth to a child with reddish hair, light buttocks, wide belly and light shins, he will be the child of Hilāl. If she bears a dusky child with curly hair, fat limbs, fat shins and fat

reason. On his return from the battle the Prophet (may peace be upon him) boycotted them for fifty days. Finally their repentance was accepted by Allah and the Qur'ānic verses were revealed about them. Hilāl was one of these persons.

1571. Qur'ān, xxiv. 6.

buttocks he will be the child of the one who was accused of adultery. She gave birth to a dusky child with curly hair, fat limbs, fat chins and fat buttocks. The Apostle of Allah (may peace be upon him) said : Had there been no oaths I would have dealt with her severely.

‘Ikrimah said : Later on he became the chief of the tribe of Muḍar. He was not attributed to his father.<sup>1572</sup>

(2249) Ibn ‘Umar said : The Apostle of Allah (may peace be upon him) said to the spouses who invoked curses on each other : Your reckoning is in Allah’s hands, for one of you is a liar ; there is no way for you to (remarry) her. He then asked : Apostle of Allah, what about my property ? He replied : There is no property for you. If you have spoken the truth, it is the price for your having had the right to intercourse with her : and if you have lied against her, it is still more remote from you.<sup>1573</sup>

(2250) Sa‘īd b. Jubair said : I asked Ibn ‘Umar : A man accused his wife of adultery ? He said : The Apostle of Allah (may peace be upon him) separated the brother and sister of Banū al-‘Ajlān (i.e. husband and wife).<sup>1574</sup> He said : Allah knows that one of you is a liar ; will one of you repent ? He repeated these words three times, but they refused. So he separated them from each other.

(2251) Ibn ‘Umar said : A man invoked curses on his wife (charging her of adultery) during the time of the Apostle of Allah (may peace be upon him) and he disowned the child. The Apostle of Allah (may peace be upon him), therefore, separated them and attributed the child to the woman.

Abū Dāwūd said : The words narrated by Mālik alone are : “and he attributed the child to the woman.”

(2252) Yūnus narrated from al-Zuhrī on the authority of Sahl b. Sa‘d in the tradition regarding *li‘ān* (invoking curses) : He disowned her conception ; hence her child was attributed to her.

1572. It may be noted that there is a difference of opinion amongst scholars about the occasion of the revelation of the verses relating to invoking curses. The majority is of opinion that these verses were revealed about Hilāl b. Umayyah. It is possible that these might have been revealed about both, i.e. ‘Uwaimir and Hilāl (*‘Awn al-Ma‘būd*, II, 242).

1573. The husband cannot take his dower back if he had intercourse with his wife after separation due to *li‘ān*. If he had no intercourse with her, she can have half of the dower according to Abū Ḥanīfah, Mālik and al-Shāfi‘ī ; the half will be returned to the husband in case he had paid the dower. There is another view that she will have the full dower ; according to another view, she will not be entitled to the dower (*‘Awn al-Ma‘būd*, II, 245).

1574. This refers to ‘Uwaimir and his wife.

*Chapter 744***WHAT SHOULD A MAN DO WHEN THE CHILD  
IS DOUBTFUL?**

(2253) Abū Hurairah said: A man from Banū Fazārah<sup>1575</sup> came to the Prophet (may peace be upon him) and said: My wife has given birth to a black son. He said: Have you any camels? He said: They are red. He asked: Is there a dusky one among them? He replied: Some of them are dusky. He asked: How do you think they have come about? He replied: This may be a strain to which they have reverted. He said: And this is perhaps a strain to which the child has reverted.<sup>1576</sup>

(2254) The tradition mentioned above has also been narrated by al-Zuhri through a different chain of narrators to the same effect. This version adds: At that time he was hinting at disowning the child.

(2255) Abū Hurairah said: A bedouin came to the Prophet (may peace be upon him), and said: My wife has given birth to a black son, and I disown him. He then narrated the rest of the tradition to the same effect.

*Chapter 745***ADMONITION FOR DISOWNING A CHILD**

(2256) Abū Hurairah reported that he heard the Apostle of Allah (may peace be upon him) say when the verse about invoking curses<sup>1577</sup> came down: Any woman who brings to her family one who does not belong to it has nothing to do with Allah (i.e. expects no mercy from Allah), and Allah will not bring her into His Paradise; and Allah, the Exalted, will veil Himself from any man who disowns his child when he looks at him, and disgrace him in the presence of all creatures, first and last.<sup>1578</sup>

1575. His name was Damdam b. Qatādah.

1576. The Prophet (may peace be upon him) did not allow him to disown the child on the basis of colour. It is possible that there might be some person in the race of the father who had the same colour as the child had. If the colour of a child differs from the colour of its mother or father, it does not mean that the child is illegitimate.

1577. Qur'ān, xxiv. 6

1578. This is a kind of threat for those who disown their child without any valid reason simply for some doubt. This is a way of accusing one's wife of committing adultery. The Prophet (may peace be upon him) has strictly prohibited to doubt the legitimacy of the child in ordinary circumstances.

## Chapter 746

## ON THE CLAIM OF AN ILLEGITIMATE CHILD

(2257) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: There is no prostitution in Islam. If anyone practised prostitution in pre-Islamic times, the child will be attributed to the master (of the slave-woman). He who claims his child without a valid marriage or ownership will neither inherit nor be inherited.<sup>1579</sup>

(2258) 'Amr b. Shu'aib on his father's authority told of his grandfather saying: The Prophet (may peace be upon him) decided regarding one who is treated as a member of a family after the death of his father to whom he is attributed when the heirs say he is one of them, that if he is the child of a slave-woman whom the father owned when he had intercourse with her, he is included among those who seek his inclusion, but gets none of the inheritance which was previously divided; he, however, gets his portion of the inheritance which has not already been divided; but if the father to whom he is attributed had disowned him, he is not joined to the heirs. If he is a child of a slave-woman whom the father did not possess or of a free-woman with whom he had illicit intercourse, he is not joined to the heirs and does not inherit even if the one to whom he is attributed is the one who claims paternity, for he is a child of fornication whether his mother was free or a slave.<sup>1580</sup>

(2259) The tradition mentioned above has also been transmitted by Muḥammad b. Rāshid through a different chain of narrators to the same effect. This version adds: He is the child of fornication for the people of his mother whether she was free or a slave. This attribution of a child to the parents was practised in the beginning of Islam. The property divided before Islam will not be taken into account.

## Chapter 747

## ON TRACING RELATIONSHIP FROM PHYSICAL FEATURES

(2260) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) entered upon

1579. In pre-Islamic Arabia prostitution was common among the Arabs. People used to send their slave-girls to brothels and earned money. When Islam came, prostitution was strictly forbidden by the Prophet (may peace be upon him). Now after the advent of Islam, if anyone claimed a child by illicit intercourse in pre-Islamic days, the child will be attributed to the master of the slave-girl and not to the claimant. He will not get a share in the inheritance of the child.

1580. These decisions were taken by the Prophet (may peace be upon him) in the beginning of Islam. This means that if a man in pre-Islamic times had a wife or a slave-woman, and he had intercourse with her, the child, if born to them within a possible valid period, will be attributed to him if he acknowledges. They will get share in the inheritance. If he denies the conception of the woman, the child will not be attributed to him ('*Awn al-Ma'būd*, II, 247).



me. The version of Musaddad and Ibn al-Sarḥ has: one day looking pleased". The version of 'Uthmān has: "The lines of his forehead were realised." He said: O 'Ā'ishah, are you not surprised to hear that Mujazziz al-Mudlaj<sup>1581</sup> saw that Zaid and Usāmah had a rug over them concerning their heads and letting their feet appear. He said: These feet are related.<sup>1582</sup>

Abū Dāwūd said: Usāmah was black and Zaid was white.

(2261) The tradition mentioned above has also been transmitted by Ibn Shihāb through a different chain of narrators to the same effect. This version has: She said: He entered upon me looking pleased, with lines of his face brightened.

Abū Dāwūd said: Ibn 'Uyainah did not remember the words "and the lines of his faces".

Abū Dāwūd said: The words "lines of his face" have been narrated by Ibn 'Uyainah himself. He did not hear al-Zuhri say (these words). He heard some person other than al-Zuhri say these words. The words "the lines (of his face)" occur in the tradition narrated by al-Laith and others.

Abū Dāwūd said: I heard Aḥmad b. Šāliḥ say: Usāmah was very black like tar and Zaid was white like cotton.

### Chapter 748

#### THE VIEW THAT LOTS SHOULD BE CAST WHEN THE CHILD IS DISPUTED

(2262) Zaid b. Arqam said: I was sitting with the Prophet (may peace be upon him). A man came from the Yemen, and said: Three persons from the people of the Yemen came to 'Alī quarrelling about a child, asking him to give a decision. They had sexual intercourse with a woman during a single state of purity. He said to two of them: Give this child to this man (the third person) with pleasure. But they (refused and) cried loudly. Again he said to two of them: Give the child to the man (the third person) willingly. But they (refused and) cried loudly. He then said: You are quarrelsome partners. I cast a lot among you; he who receives the lot, will get the child, and he

1581. Members of the tribe of Mudlaj are said to have a reputation for tracing relationship from physical features.

1582. Usāmah was the son of Zaid b. Ḥārithah. As Usāmah was black and Zaid was white, people doubted their relationship. This displeased the Prophet (may peace be upon him). But when he saw that Mujazziz, an expert of tracing relationship from physical features, confirmed their relationship, he was pleased very much and expressed his pleasure to 'Ā'ishah. This shows the legitimacy of tracking and tracing the relationship from physical features. This is maintained by 'Umar, Ibn 'Abbās, 'Aṭā', al-Auzā'i, Mālik, al-Shāfi'i, Aḥmad and the traditionists in general. Abū Ḥanīfah and the 'Irāqī jurists do not recognise tracing lineage from physical features ('*Awān al-Ma'būd* II, 248).

shall pay two-third of blood-money<sup>1583</sup> to both his companions. He then cast a lot among them, and gave the child to the one who received the lot. The Apostle of Allah (may peace be upon him) laughed so much that his canine or molar teeth appeared.<sup>1584</sup>

(2263) Zaid b. Arqam said : Three persons were brought to 'Alī (Allah be pleased with him) when he was in the Yemen. They and sexual intercourse with a woman during a single state of purity. He asked two of them : Do you acknowledge this child for this (man)? They replied : No. He then put this (question) to all of them. Whenever he asked two of them, they replied in the negative. He, therefore, cast a lot among them, and attributed the child to the one who received the lot. He imposed two-third of the blood-money (i.e. the price of the mother) on him. This was then mentioned to the Prophet (may peace be upon him), and he laughed so much that his molar teeth appeared.

(2264) Khalīl or Ibn al-Khalīl said : A woman was brought to 'Alī b. Abī Ṭālib (Allah be pleased with him). She bore a child from the intercourse of three persons. The narrator transmitted the rest of the tradition similar to the previous one. But in this version he did not mention "Yemen," and "the Prophet (may peace be upon him)," and his words "Give the child willingly."

### Chapter 749

#### ON VARIOUS KINDS OF MARRIAGE WHICH THE ARABS IN THE PRE-ISLAMIC PERIOD PRACTISED

(2265) 'Ā'ishah, wife of the Prophet (may peace be upon him), said : Marriage in pre-Islamic times was of four kinds : one of them was the marriage contracted by the people today. A man asked another man to marry his relative (sister or daughter) to him. He fixed the dower and married her to him. Another kind of marriage was that a man asked his wife, when she became pure from menstruation, to send for so-and-so, and have sexual intercourse with him. Her husband kept himself aloof, and did not have intercourse with her till it became apparent that she was pregnant from the man who had had intercourse with her. When it was manifest that she became pregnant, her husband approached her if he liked. He would do so in the interest of the nobleness of the child. This marriage was called *ṣiribā'ā'* (to utilise a man for intercourse

1583. This means the two-third of the price of the mother of the child as she was owned by him who had intercourse with her.

1584. This shows the permissibility of casting lots for the attribution of a child to its father. Some of the scholars are of view that this will be decided by the expert of tracing lineage by physical features, as the previous traditions indicate. This tradition relating to casting lots is weak in their opinion ('*Awn al-Ma'būd*, II, 248).

for a noble birth). A third kind of marriage was that a group of people less than ten in number entered upon a woman and had intercourse with her. When she conceived, gave birth to a child, and a number of days passed after her delivery, she sent for them. No one of them could refuse to attend and they gathered before her. She said to them: You have realised your affair. I have now given birth to a child, and this is your son, O so-and-so. She called the name of any one of them she liked, and the child was attributed to him. A fourth kind of marriage was that many people gathered together and entered upon a woman who did not prevent anyone who came to her. They were prostitutes. They hoisted flags at their doors which served as a sign for the one who intended to enter upon them. When she became pregnant and delivered the child, they got together before her, and called for the experts of tracing relationship from physical features. They attributed the child to whom they considered, and it was given to him. The child was called his son, and he could not deny. When Allah sent Muḥammad (may peace be upon him) as a Prophet, He abolished all kinds of marriage prevalent among the people of the pre-Islamic times, except of the Muslims practised today.

### Chapter 750

#### THE CHILD IS ATTRIBUTED TO THE ONE ON WHOSE BED IT IS BORN

(2266) 'Ā'ishah said: Sa'd b. Abī Waqqāṣ and 'Abd b. Zam'ah disputed amongst themselves about the (relationship of the) son of the slave-girl of Zam'ah, and brought the case to the Apostle of Allah (may peace be upon him). Sa'd said: My brother 'Utbah enjoined me that when I came to Mecca I should see the son of the slave-girl of Zam'ah and take his possession for that is his son. 'Abd b. Zam'ah said: He is my brother, the son of my father's slave-girl, having been born on my father's bed. The Apostle of Allah (may peace be upon him) saw his clear resemblance to 'Utbah. So he said: The child is attributed to the one on whose bed it is born, and the fornicator is deprived of any right (lit. the fornicator will have the stone).<sup>1585</sup> Veil yourself from him, Saudah.<sup>1586</sup> Musaddad added in his version: "He is your brother,

1585 *Al-ḥajar*: This might alternatively mean that the fornicator is to be stoned to death.

1586 *Al-Nawawl* said: When a man has a wife or a slave-girl, she is a bed for him. If she gives birth to a child within a limited period, the child will be attributed to him, disregarding the fact that it resembled him or not. The minimum period after meeting them is six months. But the condition of possibility of meeting and thus having intercourse is necessary for attributing the child to him. After their marriage if the possibility of their meeting is not proved, the child will not be attributed to him. This view is held by Mālik, al-Shāfi'i and the majority of scholars. Abū Ḥanīfah holds that simply solemnisation of marriage is sufficient for the attribution of the child to the hus-

'Abd.'

(2267) 'Amr b. Shu'aib, on his father's authority said that his grandfather reported: A man got up and said: Apostle of Allah, so-and-so is my son; I had illicit intercourse with his mother in the pre-Islamic period. The Apostle of Allah (may peace be upon him) said: There is no unlawful claiming of paternity in Islam. What was done in pre-Islamic times has been annulled. The child is attributed to the one on whose bed it is born, and the fornicator is deprived of any right.

(2268) Rabāh said: My people married me to a Roman slave-girl of theirs. I had intercourse with her, and she gave birth to a black (male) child like me. I named it 'Abd Allah. I again had intercourse with her, and she gave birth to a black (male) child like me. I named it 'Ubaid Allah. Then a Roman slave of my people called Yūḥannah incited her, and spoke to her in his own unintelligible language. She gave birth to a son like a chameleon (red). I asked her: What is this? She replied: This belongs to Yūḥannah. We then broached the case to 'Uthmān (for decision). I think Maḥdī said these words. He inquired from both of them, and they acknowledged. He then said to them: Do you agree that I take the decision about you which the Apostle of Allah (may peace be upon him) had taken. The Apostle of Allah (may peace be upon him) decided that the child is attributed to the one on whose bed it is born. And I think he said: He flogged her and flogged him, for they were slaves.

### Chapter 751

#### WHO IS MORE ENTITLED TO THE CUSTODY OF A CHILD?

(2269) 'Amr b. Shu'aib, on his father's authority, said that his grandfather 'Abd Allah b. 'Amr reported: A woman said: Apostle of Allah, my womb is a vessel to this son of mine, my breasts, a water-skin for him, and my lap a guard for him, yet his father has divorced me, and wants to take him away from me. The Apostle of Allah (may peace be upon him) said: You have more right to him as long as you do not marry.<sup>1:57</sup>

band. He does not stipulate the possibility of their meeting and intercourse. In the case of a slave-girl, intercourse is necessary for the attribution of child according to Mālik and al-Shāfi'i. According to Abū Ḥanīfah, a slave-girl becomes the bed of her master when she gives birth to a child and it is attributed to him. Afterwards, her children will belong to him except that he denies

The Prophet (may peace upon him) asked Saudah to veil herself as he saw the similarity of the child with 'Utbah. Otherwise he was the brother of Saudah, the son of Zam'ah ('*Awn al-Ma'būd*, II, 250).

1587. This shows that the mother has more right to the custody of the child after divorce as long as she does not marry. This is held by Mālik, Abū Ḥanīfah and al-Shāfi'i. Abū Ḥanīfah also maintains that if the woman is married to her relative, she can retain the child in her custody after marriage. But al-Shāfi'i disagrees with him ('*Awn al-Ma'būd*, II, 251).

(2270) Hilāl b. Usāmah quoted Abū Maimūnah Salmā, client of the people of Medina, as saying: While I was sitting with Abū Hurairah, a Persian woman came to him along with a son of hers. She had been divorced by her husband and they both claimed him. She said: Abū Hurairah, speaking to him in Persian, my husband wishes to take my son away. Abū Hurairah said: Cast lots for him, saying it to her in a foreign speech. Then her husband came and asked: Who is disputing with me about my son? Abū Hurairah said: O Allah, I do not say this, except that I heard a woman who came to the Apostle of Allah (may peace be upon him) while I was sitting with him, say: My husband wishes to take away my son, Apostle of Allah, and he draws water for me from the well of Abū 'Inābah, and he has benefited me. The Apostle of Allah (may peace be upon him) said: Cast lots for him. Her husband said: Who is disputing with me about my son? The Prophet (may peace be upon him) said: This is your father and this your mother, so take whichever of them you wish by the hand. So he took his mother's hand and she went away with him <sup>1588</sup>

(2271) 'All said: Zaid b. Ḥārithah went out to Mecca and brought the daughter of Ḥamzah with him. Then Ja'far said: I shall take her; I have more right to her; she is my uncle's daughter and her maternal aunt is my wife; the maternal aunt is like mother. 'All said: I am more entitled to take her. She is my uncle's daughter. The daughter of the Apostle of Allah (may peace be upon him) is my wife, and she has more right to her. Zaid said: I have more right to her. I went out and journeyed to her, and brought her with me. The Prophet (may peace be upon him) came out. The narrator mentioned the rest of the tradition. He (i.e. the Prophet) said: As for the girl, I decide in favour of Ja'far. She will live with her maternal aunt. The maternal aunt is like mother. <sup>1589</sup>

(2272) This tradition has been narrated by 'Abd al-Raḥmān b. Abī Lailā through a different chain of narrators. This version has: He decided that she would be given

1588 Al-Khaṭṭābī said in *al-Ma'ālīm*: This decision was taken about a boy who reached the age of maturity and did not need guardianship. There is a difference of opinion amongst scholars about such a boy. According to al-Shāfi'ī, if a boy is seven or eight years old, he will be given option to live with his mother or father. This is held by Ishāq. Aḥmad maintains that he will be given choice when he becomes mature. Abū Ḥanīfah and Sufyān al-Thawrī are of view that the mother has more right to the boy until he reaches the age when he eats and wears the clothes himself without the help of others (i.e. about seven years); in the case of a girl, the mother can keep her in her custody till she menstruates. In the absence of the mother, the father has more right to the child. According to Mālik, the mother has more right to the girls till they are married. The period of custody does not end with their menstruation. As for boys, the father has more right to them till they come of age (*'Awn al-Ma'būd*, II, 251)

1589 This shows that the maternal aunt is like mother in respect of custody of a child. It is already agreed unanimously that mother has more right to take the child in her custody *vis-à-vis* other heirs.



to Ja'far, and said : Her maternal aunt is with him (i.e. his wife).

(2273) 'All said : When we came out from Mecca, Ḥamzah's daughter pursued us crying : My uncle, my uncle. 'All lifted her and took her by the hand. (Addressing Fāṭimah he said :) Take your uncle's daughter. She then lifted her. The narrator then transmitted the rest of the tradition. Ja'far said : She is my uncle's daughter. Her maternal aunt is my wife. The Prophet (may peace be upon him) decided in favour of her maternal aunt, and said : The maternal aunt is like mother.

### Chapter 752

#### ON THE WAITING PERIOD OF A DIVORCED WOMAN

(2274) 'Amr b. Muḥājir reported on the authority of his father : Asmā', daughter of Yazīd b. al-Sakan al-Anṣārīyah, was divorced in the time of the Apostle of Allah (may peace be upon him). No waiting period was prescribed for a divorced woman (at that time). When Asmā' was divorced, Allah, the Exalted, sent down the injunction of waiting period for divorce. She is the first of the divorced women about whom the verse relating to waiting period was sent down.<sup>1590</sup>

### Chapter 753

#### ABROGATION OF CERTAIN INJUNCTIONS RELATING TO THE WAITING PERIOD FOR THE DIVORCED WOMAN

(2275) Ibn 'Abbās said : Women who are divorced shall wait, keeping themselves apart, three monthly courses ;<sup>1591</sup> and then said : And for such of your women as despair of menstruation, if ye doubt, their period (of waiting) shall be three months.<sup>1592</sup> This was abrogated from the former verse. Again he said :<sup>1593</sup> (O ye who believe, if ye wed believing women) and divorce them before ye have touched them, then there is no period that ye should reckon."<sup>1594</sup>

1590. Qur'ān, ii. 228.

1591. Qur'ān, ii. 228.

1592. Qur'ān, lxxv. 4.

1593. Qur'ān, xxxiii. 49.

1594. Verse ii. 228 is general. This verse provides no exception to those women who do not menstruate and to those who have been divorced before intercourse. The following two verses are exceptions from this general rule of waiting period. Verse lxxv. 4 applies to those women who do not menstruate. They may observe their waiting period for three months and not three monthly courses. This rule covers a minor girl and an aged woman. Verse xxxiii. 43 applies to those women who have been divorced before intercourse. They are not required to observe any waiting period. These two verses thus provide reservation from the general rule of waiting period contained in verse ii. 228 ('Awn al-Ma'bad, II, 253).

*Chapter 754*

## ON TAKING BACK A DIVORCED WOMAN IN MARRIAGE

(2276) 'Umar said : The Prophet (may peace be upon him) divorced Ḥafṣah, but he took her back in marriage.<sup>1595</sup>

*Chapter 755*ON THE MAINTENANCE OF A WOMAN WHO HAS BEEN  
DIVORCED ABSOLUTELY

(2277) Abū Salamah b. 'Abd al-Raḥmān reported on the authority of Fāṭimah, daughter of Qais : Abū 'Amr b. Ḥaṣṣ divorced her (Fāṭimah daughter of Qais) absolutely when he was away from home, and his agent sent her some barley. She was displeased with it. He said : I swear by Allah, you have no claim on us. She then came to the Apostle of Allah (may peace be upon him) and mentioned that to him. He said to her : No maintenance is due to you from him.<sup>1596</sup> He ordered her to spend the waiting period in the house of Umm Sharīk, but he said afterwards : That is a woman whom my Companions visit ; spend the waiting period in the house of Ibn Umm Maktūm, for he is blind and you can undress. Then when you are in a position of being remarried, tell me. She said : When I was in a position to remarry, I mentioned to him that Mu'āwiyah b. Abi Sufyān and Abū Jahm had asked me in marriage. The Apostle of Allah (may peace be upon him) said : As for Abū Jahm, he does not put

1595. The Prophet (may peace be upon him) pronounced revocable divorce. Hence he took Ḥafṣah back in marriage. It is reported that the Prophet (may peace be upon him) was asked by Divine revelation to restore Ḥafṣah as she was devoted to prayer and fasting.

In case a man pronounces absolute or irrevocable divorce to his wife, he cannot restore her without re-marriage.

1596 There is a difference of opinion amongst scholars about the maintenance and dwelling for a woman divorced by three pronouncements. According to 'Umar and Abū Ḥanīfah, the husband should provide dwelling and maintenance to a woman divorced three times and who is not pregnant. Ibn 'Abbās and Aḥmad maintain that there is neither dwelling nor maintenance for her during waiting period. Mālik and al-Shāfi'ī are of view that she will have the dwelling, but not maintenance. Those who think that maintenance and dwelling are necessary argue from verse lxv. 6 of the Qur'ān. Those who think that there is no dwelling and maintenance argue from the tradition of Fāṭimah daughter of Qais. Those who provide dwelling alone also base themselves on verse lxv. 6.

As for a woman divorced by less than three pronouncements, and she is pregnant, she will have both the dwelling and maintenance during waiting period. A woman separated by revocable divorce shall also have dwelling and maintenance.

As for a woman whose husband has died, she will have no maintenance. But she will have dwelling. In case she is pregnant, she will have no maintenance ('*Awā al-Ma'bad*, II. 254).

down his stick from his shoulder.<sup>1597</sup> and as for Mu'āwiyah, he is a poor man who has no property ; marry Usāmah b. Zaid. I disliked him, but he said : Mary Usāmah b. Zaid. So I married him, and Allah prospered him very much, and I was envied.

2278. Abū Salamah b. 'Abd al-Raḥmān said that Fāṭimah daughter of Qais told him that Abū Ḥafṣ al-Mughīrah divorced her three times. He then narrated the rest of the tradition. This version has : Khālīd b. al-Walīd and some people of Banū Makhzūm came to the Prophet (may peace be upon him) and said : Prophet of Allah, Abū Ḥafṣ b. al-Mughīrah divorced his wife three times, and he has left a little maintenance for her. He said : No maintenance is necessary for her. He then transmitted the rest of the tradition. The tradition narrated by Mālik is more perfect.

(2279) Abū Salamah reported on the authority of Fāṭimah daughter of Qais that Abū 'Amr b. Ḥafṣ al-Makhzūmī divorced her three times. He then narrated the rest of the tradition. He then mentioned about Khālīd b. al-Walīd, and said that the Prophet (may peace be upon him) said : There are no maintenance and dwelling for her. This version has : The Apostle of Allah (may peace be upon him) sent a message to her : Do not give your consent for marriage without my permission.

(2280) Fāṭimah daughter of Qais said : I was married to a man of Banū Makhzūm. He divorced me absolutely. The narrator then transmitted the rest of the tradition like that of Mālik. This version has : Do not marry yourself without my permission.

Abū Dāwūd said : Al-Sha'bī, al-Baḥīyy, and 'Aṭā' from 'Abd al-Raḥmān b. 'Āṣim and Abū Bakr b. Abī al-Jahm, all narrated on the authority of Fāṭimah daughter of Qais that her husband had divorced her three times.

(2281) The tradition mentioned above has also been transmitted by al-Sha'bī through a different chain of narrators. This version has : The husband of Fāṭimah daughter of Qais pronounced her triple divorce. The Prophet (may peace be upon him) did not allow her to have maintenance and dwelling.<sup>1598</sup>

(2282) Abū Salamah reported on the authority of Fāṭimah daughter of Qais who said to him that she was the wife of Abū Ḥafṣ b. al-Mughīrah who divorced her by three pronouncements. She said that she came to the Apostle of Allah (may peace be upon him) and sought his opinion about her going out from her house.<sup>1599</sup> He

1597. This means that he beats the woman very much. This might also mean that he travels widely.

1598. This is the basis of the view that there is no sustenance and dwelling for a woman divorced by three pronouncements.

1599. A divorced woman is not allowed to go out of her house except in dire need. For instance, if a house collapses, or one has to shift from a rented house, or the landlord evicts her by force, in all such circumstances a divorced woman can shift from her house. It is said that Fāṭimah daughter of Qais was arrogant. Her people did not like to keep her with them in the house. Hence the Prophet (may be peace upon him) ordered her to shift.

commanded her to shift to (the house of) Ibn Umm Maktūm who was blind. Marwān denied to confirm the tradition of Fāṭimah about the going out of a divorced woman from her house. 'Urwah said: 'Ā'ishah objected to Fāṭimah daughter of Qais.

Abū Dāwūd said: Ṣāliḥ b. Kaisān, Ibn Juraij, and Shu'aib b. Abī Ḥamzah—all of them narrated on the authority of al-Zuhri in a similar way.

Abū Dāwūd said: Shu'aib b. Abī Ḥamzah the name of Abū Ḥamzah is Dīnār. He is a client of Ziyād.

(2283) 'Ubaid Allah said: Marwān sent someone (Qabīṣah) to Fāṭimah and asked her (about her case). She said that she was the wife of Abū Ḥafṣ. The Prophet (may peace be upon him) appointed 'All as a governor in a certain part of the Yemen. Her husband also proceeded with him. From there he sent a message to her pronouncing one divorce that had yet remained. He commanded 'Ayyāsh b. Abī Rabi'ah and al-Ḥārith b. Hishām to provide maintenance to her. They said: By Allah, there is no sustenance for her except in case she is pregnant. She came to the Prophet (may peace be upon him) who said: There is no sustenance for you except in case you are pregnant. She then asked permission to shift (from her house), and he gave her permission. She asked: Where should I shift, Apostle of Allah? The Apostle of Allah (may peace be upon him) said: To Ibn Umm Maktūm. He was blind. She would undress herself, and he could not see her. She lived there till her waiting period passed. The Prophet (may peace be upon him) married her to Usāmah. Qabīṣah then returned to Marwān and narrated that to him. Marwān said: We did not hear this tradition except from a woman; so we shall follow the reliable practice on which we found the people. When this reached Fāṭimah, she said: Between me and you is the Book of Allah. Allah, the Exalted said: "Divorce them for their waiting period. . . . Thou knowest not: it may be that Allah will afterward bring some new thing to pass."<sup>1600</sup> She said: What a new thing will emerge after triple divorce?<sup>1601</sup>

Abū Dāwūd said: A similar tradition has been narrated by Yūnus on the authority of al-Zuhri. As for al-Zubaidī, he narrated both traditions: the tradition of 'Ubaid Allah, in the version of Ma'mar; and the tradition of Abū Salamah, in the version of 'Aqīl.

Abū Dāwūd said: Muḥammad b. Ishāq narrated on the authority of al-Zuhri that Qabīṣah b. Dhuwaib transmitted to him the version which was narrated by 'Ubaid Allah b. 'Abd Allah, which has: Qabīṣah then returned to Marwān and informed him about that.

<sup>1600</sup> Qur'ān lxxv: 1.

<sup>1601</sup> This means that this Qur'ānic verse refers to irrevocable divorce, or one or two pronouncements of divorce. After such a divorce there remains an opportunity that the husband might restore her in marriage. But in the case of triple divorce there remains no such chance.

## Chapter 756

## THOSE WHO OBJECTED TO THE TRADITION OF FĀṬIMAH

(2284) Abū Ishāq said: I was with al-Aswad in the congregational mosque. He said: Fāṭimah daughter of Qais came to 'Umar b. al-Khaṭṭāb (may Allah be pleased with him). (When she narrated the tradition about her divorce), he said: We are not to leave the Book of our Lord,<sup>1602</sup> and the *Sunnah* of our Prophet<sup>1603</sup> (may peace be upon him) for the statement of a woman; we do not know whether she remembered it or not.<sup>1604</sup>

(2285) 'Urwah said: 'Ā'ishah (Allah be pleased with her) severely objected to the tradition of Fāṭimah daughter of Qais. She said: Fāṭimah lived in a desolate house and she feared for her loneliness there. Hence the Apostle of Allah (may peace be upon him) accorded permission to her (to leave the place).

(2286) 'Urwah b. al-Zubair said: 'Ā'ishah was asked: Did you not see (i.e. know) the statement of Fāṭimah? She replied: It is not good for her to mention it (to others).

(2287) Sulaimān b. Yasār said about leaving the house by Fāṭimah: That was due to her bad manners.

(2288) Al-Qāsim b. Muḥammad and Sulaimān b. Yasār reported: Yaḥyā b. Sa'īd b. al-'Āṣ divorced the daughter of 'Abd al-Raḥmān b. al-Ḥakam absolutely. 'Abd al-Raḥmān shifted her (from there): 'Ā'ishah sent a message to Marwān b. al-Ḥakam who was the governor of Medina, and said to him: Fear Allah, and return the woman to her home. Marwān said (according to Sulaimān's version): 'Abd al-Raḥmān forced me. Marwān said (according to the version of al-Qāsim): Did not the case of Fāṭimah daughter of Qais reach you? 'Ā'ishah replied: There would be no harm to you if you did not make mention of the tradition of Fāṭimah. Marwān said: If you think that it was due to some evil (i.e. reason), then it is sufficient for you to see that there is also an evil between the two.<sup>1605</sup>

1602. This refers to the Qur'ānic verse lxxv. 6 which asks to provide dwelling to a divorced woman.

1603. This refers to a tradition narrated by 'Umar which says that both dwelling and sustenance should be provided to a divorced woman. But Aḥmad b. Ḥanbal said that attribution of this tradition to Umar was not correct. Further, the words "the *Sunnah* of our Prophet" in this tradition are not guarded.

1604. No one from among the Muslims is reported to have rejected the tradition narrated by Fāṭimah daughter of Qais. This tradition has been unanimously accepted by the community. Therefore 'Umar's objection to it does not make it unreliable. Moreover, many solitary traditions transmitted by women have been accepted by the community (*Awān al-Ma'būd*, II, 256).

1605. By her criticism on Marwān 'Ā'ishah meant that Fāṭimah left the house due to some valid reason. She did not go out of the house without reason in normal conditions. Hence his con-



(2289) Maimūn b. Mihrām said: I came to Medina and went to Sa'Id b. al-Musayyab. I said (to him): Fāṭimah daughter of Qais was divorced and she shifted from her house. Sa'Id said: This woman has perverted the people. She was arrogant; so she was placed with Ibn Umm Maktūm, the blind.

### Chapter 757

#### A WOMAN DIVORCED ABSOLUTELY MAY GO OUT OF THE HOUSE IN THE DAY

(2290) Jābir said: My maternal aunt was divorced by three pronouncements, and she went out to cut down fruit from her palm-trees. A man met her and forbade her (to go out). So she went to the Prophet (may peace be upon him) and mentioned it to him. He said: Go out, and cut down fruit from your palm-trees, for perhaps you may give alms (*ṣadaqah*) or do an act of kindness.<sup>1606</sup>

### Chapter 758

#### ABROGATION OF PROVIDING SUSTENANCE TO A WIDOW DUE TO PRESCRIPTION OF HER SHARE IN THE INHERITANCE OF HER LATE HUSBAND

(2291) The Qur'ānic verse: "Those of you who die and leave widows should bequeathe for their widows a year's maintenance and residence"<sup>1607</sup> was abrogated by the verse containing the laws of succession, as one-fourth or one-eighth share was prescribed for them (i.e. the widows). The waiting period for one year<sup>1608</sup> was also repealed, as a period of four months and ten days was prescribed for them.<sup>1609</sup>

tention was not tenable. Marwān's reply shows that he regarded the tradition of Fāṭimah as sound and reliable. Hence he drew an analogy between the two cases. By this he meant that if Fāṭimah moved from her home due to some evil or reason, say, her arrogance or isolation of the house, there was also a reason, namely, quarrel between Yaḥyā and his wife. Hence she could leave the house like Fāṭimah.

1606. This shows that a woman, divorced by three pronouncements may go out in the daytime for some necessary work, such as earning her livelihood, etc. But she must return at night. As for a woman divorced irrevocably, she cannot go out either in daytime or at night. According to Abū Hanīfah a woman divorced absolutely should not go out of the house in daytime or at night. Al-ḥāfi' maintains that she may go out in daytime but not at night.

By giving alms is meant the payment of *ṣakāt* in the case of a rich man, and the act of kindness means voluntary alms by a person or on whom *ṣakāt* is not obligatory (*'Awn al-Ma'būd*, II, 257).

607. Qur'ān, ii. 240.

1608. Qur'ān, ii. 240.

1609. Qur'ān, ii. 234.

## Chapter 759

## MOURNING OF A WOMAN WHOSE HUSBAND HAS DIED

(2292) Ḥumaid b. Nāfi' reported the following three traditions on the authority of Zainab daughter of Abū Salamah:

Zainab said: I entered upon Umm Ḥabībah when her father Abū Sufyān died. She asked for some yellow perfume containing saffron (*khaḷūq*) or something else. Then she applied it to a girl and touched her cheeks. She said: I have no need of perfume, but I heard the Apostle of Allah (may peace be upon him) say: It is not lawful for a woman who believes in Allah and the Last Day to observe mourning for one who has died more than three nights, except for four months and ten days in the case of a husband.<sup>1610</sup>

Zainab said: And I entered upon Zainab daughter of Jahsh when her brother died. She asked for some perfume and used it upon herself. She then said: I have no need of perfume, but I heard the Apostle of Allah (may peace be upon him) say when he was on the pulpit: It is not lawful for a woman who believes in Allah and the Last Day to observe mourning for one who has died more than three nights, except for four months and ten days in the case of a husband.

Zainab said: I heard my mother Umm Salamah say: A woman came to the Apostle of Allah (may peace be upon him) and said: Apostle of Allah the husband of my daughter has died, and she is suffering from eyesore; may we put antimony in her eyes? The Apostle of Allah (may peace be upon him) said: No. He said this twice or thrice. Each time he said: No.<sup>1611</sup> The Apostle of Allah (may peace be upon him) said: The waiting period is now four months and ten days. In pre-Islamic days one of you used to throw away a piece of dung at the end of a year.

Ḥumaid said: I asked Zainab: What do you mean by throwing away a piece of dung at the end of a year. Zainab replied: When the husband of a woman died, she entered a small cell, and put on shabby clothes, not touching perfume or any other thing until a year passed. Then an animal such as donkey or sheep or bird was provided to her. She rubbed herself with it. The animal with which she rubbed herself rarely survived. She then came out and was given a piece of dung which she threw away. She then used perfume or something else which she desired.

1610. The waiting period for a woman whose husband died is four months and ten days. This has been prescribed by the Qur'ānic verse ii 234.

1611. It is not lawful for a woman to use perfume or adorn herself during her waiting period when her husband is dead. In case she is suffering from eyesore she can use antimony in the night, and not in daytime. This permission has been accorded by the Prophet (may peace be upon him) in another tradition recorded in *al-Muwattā'*. In ordinary circumstances she is not allowed to use antimony (*Awn al-Ma'būd*, II, 258).

Abū Dāwūd said: The Arabic word "*ḥafsh*" means a small cell.

### Chapter 760

#### ON SHIFTING OF A WOMAN WHOSE HUSBAND DIED DURING HER WAITING PERIOD

(2293) Zainab daughter of Ka'b b. 'Ujrah reported that Furai'ah daughter of Mālik b. Sinān told her that she came to the Apostle of Allah (may peace be upon him) and asked him whether she could return to her people Banū Khidrah, for her husband went out seeking his slaves who ran away. When they met him at al-Qudūm, they murdered him. So I asked the Apostle of Allah (may peace be upon him): "Should I return to my people, for he did not leave any dwelling house of his own and maintenance for me? She said: The Apostle of Allah (may peace be upon him) replied: Yes. She said: I came out, and when I was in the apartment or in the mosque, he called for me, or he commanded (someone to call me) and, therefore, I was called. He said: How did you say? So I repeated my story which I had already mentioned about my husband. Thereupon he said: Stay in your house till the term lapses. She said: So I passed my waiting period in it (her house) for four months and ten days. When 'Uthmān b. 'Affān became caliph, he sent for me and asked me about that: so I informed him, and he followed it and decided cases accordingly.<sup>1612</sup>

### Chapter 761

#### THE VIEW THAT A WOMAN WHOSE HUSBAND DIES MAY SHIFT TO ANOTHER HOUSE DURING HER WAITING PERIOD

(2294) Ibn 'Abbās said: The following verse abrogated the rule of passing her waiting period with her people: "A year's maintenance"<sup>1613</sup> and residence. She may pass her waiting period now anywhere she wishes. 'Aṭā' said: If she wishes, she can pass her waiting period with the people of her husband and live in the house left by her husband by will. Or she may shift if she wishes according to the pronouncement of Allah, the Exalted: "But if they leave (the residence) there is no blame on you for what they do."<sup>1614</sup> 'Aṭā' said: Then the verses regarding inheritance were revealed. The

<sup>1612</sup> This shows that a widow should pass her waiting period in the house where she receives the news of the death of her husband, or in the house where she lives. She should not shift from that house to another one. This view is held by a number of Companions and Successors, such as 'Umar, 'Uthmān, Ibn 'Umar, Ibn Mas'ūd, al-Qāsim b. Muḥammad, Sālim b. 'Abd Allah, Sa'id b. al-Musayyab, Mālik, Abū Ḥanīfah, al-Shāfi'i, Ishāq and Abū Ubaid (*Awn al-Ma'būd*, II, 259).

<sup>1613</sup> Qur'ān, ii, 240.

<sup>1614</sup> Qur'ān, ii, 240.

commandment for living in a house (for one year) was repealed. She may pass her waiting period wherever she wishes.<sup>1615</sup>

### Chapter 762

#### THE THINGS FROM WHICH A WIDOW SHOULD ABSTAIN

(2295) Umm 'Aṭīyyah reported the Prophet (may peace be upon him) as saying: A woman must not observe mourning for more than three (days), except for four months and ten days in the case of a husband, and she must not wear a dyed garment<sup>1616</sup> except one of the types made of dyed yarn,<sup>1617</sup> or apply collyrium, or touch perfume except for a little costus or *az-fār*<sup>1618</sup> when she has been purified after her menstrual courses.

The narrator Ya'qūb mentioned the words "except washed clothes" instead of the words "one of the types made of dyed yarn". Ya'qūb also added: "She must not apply henna."

(2296) The tradition mentioned above has also been narrated by Umm 'Aṭīyyah from the Prophet (may peace be upon him) through a different chain of narrators. The tradition narrated by Yazīd b. Hārūn from Hishām does perfectly correspond to the

1615. Earlier a woman whose husband died had to pass her waiting period for one year in a house left by her husband. This was according to the Qur'ānic verse ii. 240. Later on, the waiting period was curtailed to four months and ten days by the Qur'ānic verse ii. 234. Thus, the former verse was repealed by the latter verse. With the repeal of her waiting period for one year, the rule of her staying in the house was also repealed. It is not necessary now for her to pass her waiting period in the house of her husband. Abū Ḥanīfah holds that the husband is not responsible for providing a house to his widow after his death for passing her waiting period. Mālik maintains that a house shall be provided by the husband to her during her waiting period. Mujāhid objects that the verse regarding the waiting period for four months and ten days was revealed before the verse which prescribes waiting period for one year. How can the earlier verse repeal the later one? Scholars have offered a number of explanations for this objection. But they are agreed unanimously that the waiting period for one year has been abrogated (*'Awn al-Ma'būd*, II, 260).

1616. It is unanimously agreed that a woman who is observing mourning should not use dyed garments that are generally used for adornment by women. Some special kind of cloth which bore white and coloured lines was made in the Yemen. The use of this sewn cloth was allowed by the Prophet (may peace be upon him). Mālik does not allow its use if it is thin. She is allowed to use black clothes as they signify the condition of melancholy and sadness. Al-Nawawī says that the Shāfi'ī jurists do not allow the use of black clothes. The use of silken clothes is also prohibited.

1617. *'Aṣb* is applied to a type of the Yemen garment which was made of cloth dyed before being woven.

1618. A mourning widow is not allowed to use perfume. But she can use a little perfume at the end of the period of her menstruation to remove the bad smell when she is purified.

*Az-fār* is an odoriferous substance resembling finger-nails, used in incense.

tradition transmitted by Ibrāhīm b. Ṭahmān and 'Abd Allah al-Sahmī from Hishām. The narrator al-Misma'ī reported Yazīd as saying: I do not know but that he said: She should not dye herself. To this the narrator Hārūn added: She should not wear coloured clothe except one of the types made of dyed yarn.

(2297) Umm Salamah, wife of the Prophet (may peace be upon him), reported him as saying: A woman whose husband has died must not wear clothes dyed with safflower (*uṣfur*) or with red ochre (*mishq*) and ornaments. She must not apply henna and collyrium.

(2298) Umm Ḥakīm, daughter of Usaīd reported on the authority of her mother that her husband died, and she was suffering from eyesore. She, therefore, applied collyrium (*jalā*). Aḥmad said: The correct version is "glittering collyrium (*kuḥl al-jalā*)". She sent her slave-girl to Umm Salamah, and she asked her about the use of glittering collyrium (*kuḥl al-jalā*). She said: Do not apply it except in the case of dire need which is troubling you. In that case you can use it at night, but you should remove it in daytime. Then Umm Salamah said: The Apostle of Allah (may peace be upon him) came to visit me when Abū Salamah died, and I had put the juice of aloes in my eye. He asked: What is this, Umm Salamah? I replied: It is only the juice of aloes and contains no perfume. He said: It gives the face a glow, so apply it only at night and remove it in daytime, and do not comb yourself with scent or henna, for it is a dye. I asked: What should I use when I comb myself, Apostle of Allah? He said: Use lote-tree leaves and smear your head copiously with them.<sup>1619</sup>

### Chapter 763

#### ON THE WAITING PERIOD OF A PREGNANT WOMAN

(2299) 'Ubaid Allah b. 'Abd Allah b. 'Utbah said that his father wrote (a letter) to 'Abd Allah b. al-Aṭqam al-Zuhrī asking him to visit Subai'ah, daughter of al-Ḥārith al-Aslamīyyah, and ask her about her story and what the Apostle of Allah (may peace be upon him) said to her when she asked his opinion (about her). So 'Umar b. 'Abd Allah wrote in reply to 'Abd Allah b. 'Utbah informing him what she told him. She told that she was under (i.e. the wife of) Sa'd b. Khawlah, who belonged to Banū 'Āmir b. Luwayy. He was one of those who participated in the battle of Badr. He died at the Farewell Pilgrimage while she was pregnant. Soon after his death she gave birth to a child. When she was purified from her bleeding after child birth, she adorned herself for seekers in marriage. Then Abū al-Sanābil b. Ba'kah, a man from Banū 'Abd al-Dār, entered upon her and said to her: What is the matter that I am

<sup>1619</sup> This shows that a woman who is passing her waiting period can use collyrium at night for some need, such as disease, but not in daytime.



seeing you adorned ; perhaps you are seeking marriage ? I swear by Allah, you cannot marry until four months and ten days pass away. Subai'ah said : When he said this to me, I gathered my clothes on me when the evening came, and I came to the Apostle of Allah (may peace be upon him), and asked him about that. He told me that I became lawful when I had delivered a child. He suggested me to marry if I wished.<sup>1620</sup> Ibn Shihāb said : I do not see any harm if she marries when she gives birth to the child, even though she had the bleeding after the child birth, but her husband should not have sexual intercourse with her until she is purified.

(2300) 'Abd Allah (b. Mas'ūd) said : I can invoke the curse of Allah on anyone who wishes : <sup>621</sup> The smaller Sūrat al-Nisā' (i.e. Sūrat al-Ṭalāq) was revealed after the verse regarding the waiting period of four months and ten days had been revealed.

### Chapter 764

#### ON THE WAITING PERIOD OF A SLAVE-MOTHER

(2301) 'Amr b. al-Āṣ said : Do not confuse us about his<sup>1622</sup> *Sunnah*. Ibn al-Muthannā said : The *Sunnah* of our Prophet (may peace be upon him) is that the waiting period of a slave-mother whose husband has died is four months and ten days.<sup>1623</sup>

1620. Earlier the waiting period of four months and ten days applied both to a woman who was not pregnant and to the one who was pregnant according to the Qur'ānic verse ii. 234. But later on the Qur'ānic verse lxxv. 4 was revealed. Henceforth the waiting period of the pregnant women ended with the delivery of the child. Now if the husband of a woman dies while she is pregnant, her waiting period shall come to an end when she gives birth to the child. This view is held by Ibn Mas'ūd, 'Umar, Ibn 'Umar, Abū Hurairah, Abū Ḥanīfah, Mālik, al-Auzā'i, Sufyān al-Thawrī and al-Shāfi'i and the majority of scholars. But 'Alī and Ibn 'Abbās maintain that she must wait for the period which is longer of the two, that is, if the period of the delivery of child is longer than four months and ten days, she must wait for that period. In case the period of four months and ten days is longer than that of the birth of the child, she must wait for that period ('*Awn al-Ma'būd*, II, 262).

1621. By this expression Ibn Mas'ūd meant to indicate his certain knowledge and firmness about the repeal of the commandment of four months and ten days for pregnant women. Verse ii. 234 was revealed earlier, and verse lxxv. 4 was revealed later. Hence the former was abrogated by the latter.

1622. This refers to the model practice and behaviour of the Prophet (may peace be upon him)

1623. It is agreed that if the husband of a slave-girl dies, and she is not pregnant, she will have to wait for four months and ten days. The case of the waiting period of a slave-mother is disputed. According to al-Awzā'i, Ishaq b. Rahwaih, Sa'id b. al-Mussayyab, Sa'id b. Jubair, al-Ḥasan and Ibn Sīrīn, she must wait for four months and ten days like a free woman. Abū Ḥanīfah, Sufyān al-Thawrī, 'Atā' and al-Nakha'i are of view that she must wait three menstrual periods. This is also

## Chapter 765

**A HUSBAND WHO HAS DIVORCED BY THREE PRONOUNCEMENTS  
CANNOT TAKE BACK HIS WIFE IN MARRIAGE UNTIL SHE  
MARRIES ANOTHER MAN**

(2302) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) was asked about a man who divorced his wife three times, and she married another who entered upon her, but divorced her before having intercourse with her, whether she was lawful for the former husband. She said : The Prophet (may peace be upon him) replied : She is not lawful for the first (husband) until she tastes the honey of the other husband and he tastes her honey.<sup>1624</sup>

## Chapter 766

**THE GRAVITY OF THE SIN OF ADULTERY**

(2303) 'Abd Allah (b. Mas'ūd) said : I asked : Apostle of Allah, which sin is the gravest ? He replied : That you associate someone with Allah, while He has created you. I again asked : Which then ? He said : That you kill your child fearing that it will eat with you. I again asked : Which then ? He replied : That you commit adultery with the wife of your neighbour. Allah then revealed the following Qur'ānic verse in support of the statement of the Prophet (may peace be upon him) : "Those who invoke not with Allah any other god, nor slay such life as Allah has made sacred, except for just cause, nor commit fornication."<sup>1625</sup>

(2304) Jābir b. 'Abd Allah said : Musaikah, a slave-girl of some *Anṣārī*, came and said : My master forces me to commit fornication. Thereupon the following verse<sup>1626</sup> was revealed : "But force not your maids to prostitution (when they desire chastity)."<sup>1627</sup>

the opinion of 'Alī and Ibn Mas'ūd. Mālik, al-Shāfi'ī and Aḥmad maintain that she must wait only for one menstrual period. This view is also held by Ibn 'Umar. 'Urwah b. al-Zubair, al-Qāsim b. Muḥammad, al-Sha'bī and al-Zuhrī (*'Awn al-Ma'būd*, II, 263).

1624. This refers to having intercourse with her. A woman divorced by three pronouncements cannot remarry her husband until she marries another man and he has intercourse with her. Thereafter if he divorces her, she is allowed to marry the former husband after passing the waiting period. This is unanimously held by scholars (*'Awn al-Ma'būd* II, 263).

1625. Qur'ān, xxv. 68.

1626. Qur'ān, xxiv. 33.

1627 It is reported that 'Abd Allah b. Ubayy, the well-known hypocrite of Medina, had several slave-girls. Musaikah was one of them. He used to force them to prostitution, but they hated this profession severely. Musaikah came to the Prophet (may peace be upon him) and complained to him against her master. On this occasion the Qur'ānic verse xxiv. 33 was revealed.

(2305) Mu'tamir reported on the authority of his father: Sa'īd b. al-Ḥasan explaining the Qur'ānic verse "But if anyone compels them, yet after such compulsion is Allah oft-forgiving, most merciful (to them),"<sup>1628</sup> said: Allah is oft-forgiving to those (slave-girls) who were compelled (to prostitution).<sup>1629</sup>

1628. Qur'ān, xxiv. 33.

1629. Islam aims at building a pure and handsome society which is free from social evils. Hence it emphasises marriage and family life. It does not like celibacy, for it may lead a man to sin. It exhorts man and woman to marry and avoid single life. It also prohibits the spread of immorality and obscene literature which provokes man to fall into sin. Hence it has prescribed severe punishment for fornication. In pre-Islamic period prostitution was practised in Arabia on a large scale. The slave-girls were forced to earn living for their masters by this profession. Islam put a stop to this practice and condemned it for a Muslim society for ever.

## VII. KITĀB AL-ṢIYĀM

### [ BOOK OF FASTING ]

#### *Chapter 767*

#### BEGINNING OF THE PRESCRIPTION OF FASTING<sup>1630</sup>

(2306) Ibn 'Abbās explained the following Qur'ānic verse: "O ye who believe! fasting is prescribed for you as it was prescribed for those before you".<sup>1631</sup> During the lifetime of the Prophet (may peace be upon him), when the people offered night prayer, they were asked to abstain from food and drink and (intercourse with) women. They kept fast till the next night.<sup>1632</sup> A man betrayed himself and had intercourse with his wife after he had offered the night prayer, and he did not break his fast. So Allah, the Exalted, intended to make it (fasting) easy for those who survived, thus providing a concession and utility. Allah, the Glorified, said: "Allah knoweth what ye used to do secretly among yourselves."<sup>1633</sup> By this Allah benefited the people and provided concession and ease to them.

(2307) Al-Barā' (h. 'Āzib) said: When a man fasted and slept, he could not eat

1630. Fasting is one of the five fundamentals (pillars) of Islam. Fasting during Ramaḍān was first prescribed in 2 A.H. at Medina by the Qur'ānic verse ii. 183. The Qur'ān indicates that the purpose of fasting is to learn self-restraint (ii. 183). By restraining oneself from eating, drinking and sexual intercourse all the day long a man learns curbing evil passions and controlling external desires; one also learns to control internal desires and remove evils of heart and soul by keeping fast during Ramaḍān. *Taqwā* is a comprehensive term indicating the attainment of all good moral qualities and removal of all moral evils. This term has no equivalent in English. Abdullah Yusuf Ali writes in his commentary of the Qur'ān: "The Muslim fast is not meant for self-torture. Although it is stricter than other fasts it also provides alleviations for special circumstances. If it were merely a temporary abstention from food and drink, it would be salutary to many people, who habitually eat and drink to excess. The instincts for food, drink and sex are strong in the animal nature, and temporary restraint from all these enables the attention to be directed to higher things. This is accomplished through prayer, contemplation and acts of charity, not of the showy kind, but by seeking out those really in need" (I, 72).

1631: Qur'ān, ii. 183.

1632 This shows that the fast prescribed earlier was harder than the final ones. Fasting underwent a gradual change. Hardship was removed as much as possible, and it was made easier for the Muslims.

1633. Qur'ān, ii. 187.

till (another night) like it. Ṣarmah b. Qais al-Anṣārī came to his wife while he was fasting and asked her: Do you have something (to eat)? She replied: No. Let me go and seek something for you. So she went out and sleep overcame him. She came (back) and said (to him): You are deprived (of food). He fainted before noon. He used to work all day long at his land. This was mentioned to the Prophet (may peace be upon him). So the following verse was revealed: "Permitted to you, on the night of the fasts, is the approach to your wives. They are your garments and ye are their garments. Allah knoweth what ye used to do secretly among yourselves. But He turned to you and forgave you. So now associate with them, and seek what Allah hath ordained for you. And eat and drink until the white thread of dawn appear to you".<sup>1634</sup> He recited up to the words "of dawn."

### Chapter 768

#### ABROGATION OF THE VERSE "FOR THOSE WHO CAN DO IT (WITH HARDSHIP) IS A RANSOM"

(2308) Salamah b. al-Akwa' said: After the revelation of the verse "For those who can do it (with hardship) is a ransom, the feeding of one, that is indigent,"<sup>1635</sup> if one of us intended to leave the fast and pay ransom, he could do so, until the verse following it was revealed, and abrogated the (previous) verse.<sup>1636</sup>

(2309) Ibn 'Abbās explaining the Qur'ānic verse "For those who can do it (with hardship) is a ransom, the feeding of one, that is indigent,"<sup>1637</sup> said: If one of them wished to pay ransom by providing food to an indigent person he could pay ransom. Thus, his fast was complete. Then Allah, the Exalted, pronounced: "But he that will give more, of his own free will, it is better for him".<sup>1638</sup> Again He pronounced: "So every one of you who is present (at his home) during that month should spend it in fasting. But if anyone is ill, or on a journey, the prescribed period (should be made up) by days later."<sup>1639</sup>

1634. Qur'ān, ii. 187.

1635. Qur'ān, ii. 184.

1636. The verse that repealed the Commandment of choice between fasting and ransom reads: So every one of you who is present (at his home) during that month should spend it in fasting" (ii. 185).

It should be noted that the concession of paying ransom for fasting was granted in the early phase of fasting. Later on this injunction was abrogated. Now everyone who is able to fast shall have to keep fast. He has no choice to pay ransom for fast.

1637. Qur'ān, ii. 184.

1638. Qur'ān, ii. 184.

1639. Qur'ān, ii. 185.



*Chapter 769*

THE VIEW THAT THE PAYMENT OF RANSOM FOR FASTING  
HAS NOT BEEN REPEALED: IT APPLIES TO THE AGED  
AND THE PREGNANT WOMEN

(2310) Ibn 'Abbās said: The verse concerning the payment of ransom stands valid for pregnant and suckling women.

(2311) Ibn 'Abbās, explaining the verse; "For those who can do it (with hardship) is a ransom, the feeding of one, that is indigent,"<sup>1640</sup> said: This was a concession granted to the aged man and woman who were able to keep fast;<sup>1641</sup> they were allowed to leave the fast and instead feed an indigent person for each fast; (and a concession) to pregnant and suckling woman when they apprehended harm (to themselves).

Abū Dāwūd said: That is to say, they apprehended harm to their pregnancy and the infant; they may leave the fast and feed (the poor).

*Chapter 770*

THE MONTH SOMETIMES CONSISTS OF  
TWENTY-NINE DAYS

(2312) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying: We are an unlettered people who can neither write nor count. The month is thus and thus and thus. The narrator Sulaimān closed one finger of his hand the third

<sup>1640</sup>. Qur' n, ii. 184

<sup>1641</sup>. This means that this verse applies to those aged men and women who were able to keep fast, but with great hardship, they were allowed either to fast or to feed the poor. This is held by 'Alī, Ibn 'Abbās and Abū Hurairah. This verse is not abrogated in their opinion. This applies also to a pregnant and a suckling woman. If they fear that fasting will be harmful to pregnancy and the infant, they are allowed to leave the fast. According to Ibn 'Abbās, pregnant and suckling women are required to keep fast later on in addition to feeding the poor. But the aged are not required to keep fast. Feeding the poor is enough for them. It is reported that Anas used to feed the poor and did not keep fast when he became too old. This view is also held by Abū Ḥanīfah. Al-Shāfi'i, al-Auzā'i, Sufyān al-Thawrī and Abū Ḥanīfah maintain that it is not necessary for pregnant and suckling women to feed the poor. They should keep the fast later on as an atonement. They will be treated like a patient. This is also held by al-Ḥasan, 'Atā', al-Nakha'i and al-Zuhri. According to Mālik, a pregnant woman is like a patient. She must keep the fast later on, but she is not required to feed the poor. A suckling woman should feed and keep the fast later on ('*Awn al-Ma'būd*, II, 266).

time. that is (a month consists of) twenty-nine and (sometimes) thirty days.<sup>1642</sup>

(2313) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying: The month consists of twenty-nine days, but do not fast till you sight it (the moon) and do not break your fast till you sight it. If the weather is cloudy, calculate it thirty days. When the twenty-ninth of Sha'bān came, Ibn 'Umar would send someone (who tried) to sight the moon for him. If it was sighted, then well and good; in case it was not sighted, and there was no cloud and dust before him (on the horizon), he would not keep fast the next day. If there appeared (on the horizon) before him cloud or dust, he would fast the following day. Ibn 'Umar would end his fasting alone with the people, and did not follow this calculation.<sup>1643</sup>

(2314) Ayyūb said: 'Umar b. 'Abd al-'Azīz wrote (a letter) to the people of Baṣrah: It has reached us from the Apostle of Allah (may peace be upon him), like the tradition narrated by Ibn 'Umar from the Prophet (may peace be upon him). This version adds: The best calculation is that when we sight the moon of Sha'bān on

1642. He indicated the number of months by spreading out his fingers. To indicate the thirty days he spread out the ten fingers three times; to indicate twenty-nine days he spread out ten fingers for the first two times and nine the third time. It may be noted that writing was not common among the Arabs in the lifetime of the Prophet (may peace be upon him). Due to the lack of literacy, the Arabs used to count by fingers. In order to make the religion easier, the Prophet (may peace be upon him) did not defend the calculation of the days of a month on astronomy or mathematical calculations. As Islam is a natural and universal religion, the Prophet (may peace be upon him) indicated a simple, practicable, unsophisticated and natural way of knowing the end of a month. It depends on sighting a moon. A month consists of twenty-nine or thirty days. If the moon is sighted on the twenty-ninth of a month, fasting will begin the following day. If the moon is not sighted on the twenty-ninth of a month due to some reason, the month will consist of thirty days. The Prophet (may peace be upon him) thus guided the Muslims to a simple and natural system of calculating a month practicable in all places and times.

1643. Ibn 'Umar used to keep fast on the day when the appearance of the moon was doubtful due to cloud or dust. But when it was clear, he did not keep fast like other people. Ibn al-Jawzī said: About fasting on the twenty-ninth of Sha'bān when the moon is not sighted due to cloud or dust, according to Aḥmad, there are three viewpoints: First, fasting is necessary as if it was of Ramaḍān. Secondly, keeping the obligatory or supererogatory fast on the day when the vision of the moon is doubtful is not lawful. But one can keep fast as atonement, or expiation, or vow, or supererogatory fast, provided one was habituated to it. This view is held by al-Shāfi'ī. Abū Ḥanīfah and Mālik maintain that it is not lawful to fast with the intention of the fast of Ramaḍān on the day when the appearance of the moon is doubtful. To keep other kinds of fast is lawful. Thirdly, it depends on the decision of the ruler of a country. If he keeps fast, the people too must do. If he does not fast, the people also should follow him. There is a tradition transmitted by al-Bukhārī: If the weather is cloudy, then complete the number (of thirty days). Abū Dāwūd and al-Bukhārī have also transmitted a tradition on the authority of 'Ammār: He who fasted on the day when the appearance of the moon is doubtful disobeyed Abū al-Qāsim (i.e. the Prophet). Both these traditions indicate that fasting for Ramaḍān on the day when the appearance of the moon is doubtful is not lawful (*'Awn al-Ma'būd*, II, 268).

such-and-such date, fasting will begin on such-and-such date, Allah willing, except that they sight the moon before that (date).<sup>1644</sup>

(2315) Ibn Mas'ūd said : We kept fast for twenty-nine days along with the Prophet (may peace be upon him) more often than we kept fast for thirty days.<sup>1645</sup>

(2316) Abū Bakrah reported the Prophet (may peace be upon him) as saying : The two months of 'Īd (festival), Ramaḍān and Dhū al-Ḥijjah, are not defective.<sup>1646</sup>

### Chapter 771

#### THE LAW ABOUT A SITUATION WHEN THE PEOPLE ARE MISTAKEN IN SIGHTING THE NEW MOON

(2317) Abū Hurairah reported the Prophet (may peace be upon him) as saying : The end of Ramaḍān is on the day when you end it, and the 'Īd (festival) of sacrifice is on the day when you sacrifice.<sup>1647</sup> The whole of 'Arafah is the place of staying, and the whole of Minā is the place of sacrifice, and all the roads of Mecca are the place of sacrifice, and the whole of Muzdalifah is the place of staying.

1644 This means that if the moon of Sha'bān is sighted on the thirtieth of Rajab, the moon of Ramaḍān should be sighted according to this calculation. In case the moon of Sha'bān appears on the twenty ninth of Rajab, the calculation will then be made accordingly. This shows that the people should be careful about the calculation of the dates and sighting the moon from the month of Sha'bān.

1645 This means that the moon of Shawwāl was very often sighted on the twenty-ninth of Ramaḍān during the time of the Prophet (may peace be upon him).

1646 Various interpretations have been offered for this statement. First, even if these months have sometimes only twenty-nine days, they are not on that account deficient in comparison with a month which has thirty days. Secondly, the moon of these months is not sighted on the twenty-ninth of the previous month in the same year. Thirdly, the reward for actions done during the first ten days of Dhū al-Ḥijjah is no less than the reward granted for actions done during the month of Ramaḍān ('*Awn al-Ma'būd*, II, 268).

1647. This means that if the Muslims sometimes are mistaken in sighting the moon on the correct date, there will be no sin on their part ; the fasting and the 'Īd prayer will all be valid. For instance, if they sight the moon for Shawwāl on the 30th of Ramaḍān, but they realise later on that the moon actually appeared on the 29th, this mistake will not be taken into consideration. A tradition recorded by al-Tirmidhī says : (The correct d.o.y of) fasting is the day when all of you fast ; and (the right day of) ending the fast is the day when all of you end ; and (the right day of) sacrifice is the day when all of you sacrifice. This means that one should keep fast along with the majority of the people and end it along with them. This is a mercy of Allah to His servants. This implies that a mistake in a question which is subject to *iftihād* (legal interpretation) is negligible ('*Awn al-Ma'būd*, II, 269).

*Chapter 772*LAWs ABOUT THE MOON OF RAMAḌĀN WHEN THE  
WEATHER IS CLOUDY

(2318) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) used to count the days in Sha'bān in a manner he did not count any other month ; then he fasted when he sighted the new moon of Ramaḍān ; but if the weather was cloudy he counted thirty days and then fasted.<sup>1648</sup>

(2319) Ḥudhaifah reported the Apostle of Allah (may peace be upon him) as saying : Do not fast (for Ramaḍān) before the coming of the month until you sight the moon or complete the number (of thirty days) ; then fast until you sight the moon or complete the number (of thirty days).<sup>1649</sup>

Abū Dāwūd said : This tradition has been transmitted by Sufyān and others from Maṣṣūr from Rib'ī on the authority of a person from the Companions of the Prophet (may peace be upon him), but he did not mention the name of Ḥudhaifah.

*Chapter 773*THE VIEW THAT IF THE WEATHER IS CLOUDY ON THE  
TWENTY-NINTH OF RAMAḌĀN, THEN  
COMPLETE THIRTY FASTS

(2320) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : Do not fast one day or two days just before Ramaḍān except in the case of a man who has been in the habit of observing a fast (on that day) ; and do not fast until you sight it (the moon). Then fast until you sight it. If a cloud appears on that day (i.e. 29th of Ramaḍān) then complete the number thirty (days) and then end the fasting : a month consists of twenty-nine days.

Abū Dāwūd said : This tradition has also been transmitted by Ḥātim b. Abī

<sup>1648</sup>. This means that the Prophet (may peace be upon him) was more careful about the moon of Sha'bān than the moon of other months. The reason is that if the moon of Sha'bān is sighted on a correct date, the counting of the days for sighting the moon of Ramaḍān and Shawwāl will be easy. There will be no mistake and confusion about the days of these two months. If there is a mistake in sighting the moon of Sha'bān, that may lead to further mistakes and confusion in sighting the moon of Ramaḍān and subsequently of Shawwāl.

<sup>1649</sup>. It is not permissible to fast for Ramaḍān before the appearance of its moon, or when the appearance is doubtful. If the moon is not sighted on the twenty-ninth of Sha'bān, fasting should be commenced after completing the number of thirty days of Sha'bān. Similarly, if the moon does not appear on the 29th of Ramaḍān, people should fast for complete thirty days, and end fasting after the visibility of the moon of Shawwāl.

Ṣaghīrah, Shu'bah and al-Ḥasan b. Ṣāliḥ on the authority of Simāk to the same effect. But they did not mention the words "then end the fasting."

Abū Dāwūd said : The name of Ḥātim is Ḥātim b. Muslim b. Abī Ṣaghīrah. Abū Ṣaghīrah the husband of his mother.

### Chapter 774

#### FASTING DURING THE MONTH OF SHA'BĀN BEFORE THE ADVENT OF RAMAḌĀN

(2321) 'Imrān b. Ḥuṣain said : The Apostle of Allah (may peace be upon him) asked a man : Did you fast the last day of Sha'bān ? He replied : No. He said : If you did not observe a fast, you must fast for a day.<sup>1650</sup> One of the two narrators said : For two days.

(2322) Abū al-Azhar al-Mughīrah b. Farwah said : Mu'āwiyah stood among the people at Dair Mustahill<sup>1651</sup> lying at the gate of Ḥimṣ. He said : O people, we sighted the moon on such-and-such day. We shall fast in advance. Anyone who likes to do so may do it. Mālik b. Hubairah al-Sabā'i stood up and asked : Mu'āwiyah, did you hear the Apostle of Allah (may peace be upon him) say something (about this matter), or is this something on the basis of your opinion ? He replied : I heard the Apostle of Allah (may peace be upon him) as saying : Fast the month (in the beginning) and in the last.<sup>1652</sup>

(2323) Sulaimān b. 'Abd al-Raḥmān al-Dimashqī said about this tradition that al-Walīd said : I heard Abū 'Amr al-Auzā'i say : The word *sirrahū* means beginning of the month.<sup>1653</sup>

(2324) Aḥmad b. 'Abd al-Wāḥid reported on the authority of Abū Mushir. He said : Sa'id, that is, Ibn 'Abd al-'Azīz said : The meaning of the word *sirrah* is "in the beginning of it (the month)"

1650. This tradition contradicts another tradition which prohibits fasting one day just before Ramaḍān. This has been explained by saying that by this fact the Prophet (may peace be upon him) meant the fast for which a man had made a vow, or he had been in the habit of observing the fast on that day. He, therefore, recommended to atone for them later on. Initially one should fast that day.

1651. The name of a commercial centre. Mustahill was the name of its owner.

1652. This means that one should keep the fasts of Ramaḍān from the beginning to the end. He emphasised fasting the whole month without any break. Or it means that one should fast in the beginning of Ramaḍān and on the last day of Sha'bān or in the last days of Sha'bān. This refers to a man who is in the habit of keeping fast towards the end of every month.

1653. Al-Khaṭṭābī said : I think the meaning of the word *sirr* mentioned by al-Auzā'i is wrong. There may be a mistake in transmission of the meaning from him. The correct meaning of *sirr* is "last" or "end" (*Awn al-Ma'būd*, II, 270-71).



Abū Dāwūd said : Some of them said : *Sirrahn* means "in the middle of it". Others said : "towards the end of it"

### Chapter 775

#### THE RULE OF LAW IN CASE THE MOON IS SIGHTED IN A CITY A NIGHT BEFORE IT WAS SIGHTED IN OTHER CITIES

(2325) Kuraib said that Umm al-Faḍl, daughter of al-Hārith, sent him to Mu'āwiyah in Syria. He said : I came to Syria and performed her work. The moon of Ramaḍān appeared while I was in Syria. We sighted the moon on the night of Friday. When I came to Medina towards the end of the month (of Ramaḍān), Ibn 'Abbās asked me about the moon. He said : When did you sight the moon ? I said : I sighted it on the night of Friday. He asked : Did you sight it yourself ? I said : Yes, and the people also sighted it. They fasted and Mu'āwiyah also fasted. He said : But we sighted it on the night of Saturday. Since then we have been fasting until we complete thirty days or we sight it. Then I said : Are the sighting of the moon by Mu'āwiyah and his fasts not sufficient for us ? He replied : No. The Apostle of Allah (may peace be upon him) commanded us to do so.<sup>164</sup>

1654. This shows that if the moon is sighted in a place on a certain date while it is sighted in other places one night before or after it, the people of different places may fast according to the visibility of the moon in their respective territories. The people of one place are not bound to follow the visibility of the moon at another place. This view is held by Ibn 'Abbās, al-Qāsim b. Muḥammad, Sālim b. 'Abd Allah b. 'Umar, 'Ikrimah and Ishāq b. Rahwaih. In their opinion the people of each locality may observe the fasting during Ramaḍān and 'Īd festival according to the appearance of the moon in their locality. But most of jurists hold that if it is established later on that the moon was sighted one night before, the people should keep one fast as an atonement. According to the majority opinion, if the moon does not appear in a certain locality, but it is sighted in other places, the people of that locality should follow them in respect of the appearance of the moon. This view is held by Abū Ḥanīfah, Mālik, al-Shāfi'ī and Ahmad

This is a great difference of opinion amongst the scholars on this question. First, each locality may observe fasting and 'Īd according to the appearance of the moon in their locality. Second, the appearance of the moon in one place will be binding on the people of other places where it did not appear. Ibn 'Abd al-Barr says that the consensus of opinion was that the appearance of the moon in one locality will not apply to the far-off and extremely remote places from each other like Khurāsān and Andalus. According to al-Qurṭubī if the visibility of the moon is established with certainty by witness in a place, that will apply to other places too. Ibn al-Mājisūn holds that it will apply to the place where the appearance was established by witness, except that it is established according to the ruler of the country ; it will then be binding on others. Some Shāfi'ī scholars hold that if the places are near to each other, the appearance of the moon in one place will apply to the other. In case they are remote, that will not apply to all.

Opinion is also divided as to the distance of the places. First if the horizons change, the

(2326) Al-Ḥasan said about a person who was in a certain city. He fasted on Monday, and two persons bore witness that they had sighted the moon on the night of Sunday. He said : That man and the people of his city should not fast as an atonement except that they know (for certain) that the people of a certain city of Muslims had fasted on Sunday. In that case they should keep one fast as an atonement.<sup>1655</sup>

### Chapter 776

#### ABOMINATION OF FASTING ON THE DAY WHEN THE VISIBILITY OF THE MOON IS DOUBTFUL

2327) Abū Ishāq reported on the authority of Ṣilah : We were with 'Ammār on the day when the appearance of the moon was doubtful. (The meat of) goat was brought to him. Some people kept aloof from (eating) it. 'Ammār said : He who keeps fast on this day disobeys Abū al-Qāsim (i.e. the Prophet) (may peace be upon him).<sup>1656</sup>

### Chapter 777

#### ON A MAN WHO FASTS FOR SHA'BAN AND COMBINES IT WITH RAMAḌAN

(2328) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as

appearance of the moon will also change. Second, the appearance may change at a distance of shortening the prayer during the journey. Third, the visibility may change with the change of the countries. Fourth, the countries known to each other will observe the fasting and 'Īd on the appearance of the moon in any country. Fifth, the appearance of the moon will be binding on the people of a place where the appearance was established by witness, and not binding on others. In case the ruler of a country or the caliph of the whole community announces the visibility of the moon, then it will be binding on all Muslims (*Awn al-Ma'būd*, II, 271).

1655. This means that if it is proved with certainty that the moon was sighted one night before, then the people should fast as an atonement later on.

1656. This shows that fasting on the day when the appearance of the moon is doubtful is prohibited. Al-Khaṭṭābī said : Prohibition of fasting on a day when the appearance of the moon is doubtful has been interpreted in many ways. First, the prohibition applies to those who intend to fast for Ramaḍān and to those who intend to fast for Sha'bān. This view is held by Mālik, al-Auzā'ī, Abū Ḥanīfah, Aḥmad b. Ḥanbal and Ishāq b. Rahwaih. Second, neither obligatory nor supererogatory fasting is allowed on this day. Fasting for Sha'bān and Ramaḍān should be separate. This view is held by 'Ikrimah. A tradition in support of this view has been narrated by Abū Hurairah and Ibn 'Abbās. But 'A'ishah and Asmā' used to fast on this day. 'Abd Allah b. 'Umar kept fast when the weather was cloudy or dusty; he did not fast when the weather was clear. This is the opinion of Aḥmad b. Ḥanbal. Al-Shāfi'ī allows a man who is in the habit of fasting on this day; otherwise not (*Awn al-Ma'būd*, II, 272).

saying: Do not fast one day or two days just before Ramaḍān, except in the case of a man who has been in the habit of observing the particular fast, for he may fast on that day.<sup>1657</sup>

(2329) Umm Salamah said that she never saw the Prophet (may peace be upon him) fasting the whole month except Sha'bān which he combined with Ramaḍān.<sup>1658</sup>

### Chapter 778

#### ABOMINATION OF FASTING TOWARDS THE END OF SHA'BAN

(2330) 'Abd al-'Azīz b. Muḥammad said: 'Abbād b. Kathīr came to Medina and went to the assembly of al-'Alā'. He caught hold of his hand and made him stand and said: O Allah, he narrates a tradition from his father on the authority of Abū Hurairah who reported the Apostle of Allah (may peace be upon him) as saying: When the middle of Sha'bān comes, do not fast.<sup>1659</sup>

Al-'Alā' said: O Allah, my father narrated this tradition on the authority of Abū Hurairah from the Prophet (may peace be upon him).

Abū Dāwūd said: Al-Thawrī, Shibl b. al-'Alā', Abū 'Umaish and Zubair b. Muḥammad transmitted it from al-'Alā'.

Abū Dāwūd said: 'Abd al-Raḥmān (the father of al-'Alā') did not narrate this tradition. I asked Ahmad: Why? He said: Because he held that the Prophet (may peace be upon him) fasted during Sha'bān and Ramaḍān consecutively, but he (al-'Alā') narrated a tradition from the Prophet (may peace be upon him) which contradicted it.

Abū Dāwūd said: In my opinion this does not contradict it. No one has narrated

1657. This means that if a man is in the habit of fasting, say, on Monday or Thursday, and this day falls on the last day of Sha'bān, he is allowed to keep fast according to his habit.

1658. Here the whole month means most of the days in the month. The Prophet (may peace be upon him) used to keep fasts during the month of Sha'bān more than the other months. He kept fast in Sha'bān frequently until the month of Ramaḍān came, and his fasting in Sha'bān was thus combined with it.

1659 'Abd al-Raḥmān b. Maḥdī objected to this tradition transmitted by al-'Alā'. This contradicts the tradition narrated by Umm Salamah which states that the Prophet (may peace be upon him) fasted the whole month of Sha'bān, and combined his fasting with Ramaḍān. Al-Qurṭubī has reconciled these two traditions by saying that it depends on one's habit and custom. If a man is in the habit of fasting the whole of Sha'bān, he is allowed to do so. But if a man is not in the habit of doing so, he should not fast in the second half of Sha'bān so that he may not grow weak. He should leave the fast towards the end of Sha'bān in order to have the strength of keeping fast during Ramaḍān.

it from his father (i.e. al-'Alā's father) except al-'Alā'.<sup>1660</sup>

### Chapter 779

#### WITNESS OF TWO PERSONS TO THE VISIBILITY OF THE MOON OF SHAWWĀL

(2331) Husain b. al-Ḥārith al-Jadlī from the tribe of Jadlīl Qais said that the governor of Mecca delivered a speech and said: The Apostle of Allah (may peace be upon him) took a pledge from us that we should perform the rites of *Ḥajj* after sighting the moon. If we do not sight it and two reliable persons bear witness, we should perform the rites of *Ḥajj* on the basis of their witness.<sup>1661</sup> I then asked al-Ḥusain b. al-Ḥārith: Who was the governor of Mecca? He replied: I do not know. He then met later on and told me: He was al-Ḥārith b. Ḥāṭib, brother of Muḥammad b. Ḥāṭib. The governor then said: There is among you a man who is more acquainted with Allah and His Apostle than I. He witnessed to this from the Apostle of Allah (may peace be upon him). He then pointed with his hand to a man. Al-Ḥusain said: I said to an old man beside me: Who is that man to whom the governor has alluded? He said: "This is 'Abd Allah b. 'Umar, and he spoke the truth. He was more acquainted with Allah than he. He ('Abd Allah b. 'Umar) said: For this the Apostle of Allah (may peace be upon him) commanded us

(2332) Rib'ī b. Ḥirāsh reported on the authority of a man from the Companions of the Prophet (may peace be upon him): People differed among themselves on the last day of Ramaḍān (about the appearance of the moon of Shawwāl). Then two

1660. Although the narrator al-'Alā' b. 'Abd al-Raḥmān is objectionable in the opinion of the traditionists, Mālik has narrated tradition on his authority. Muslim has also argued on this basis and narrated a number of traditions from him. Al-Bukhārī has also narrated traditions from him. Every traditionist has his own criterion for judging the reliability of the narrators, (*'Awn al-Ma'būd*, II, 273).

1661. Abū Dāwūd has argued from sighting the moon of Dhū al-Ḥijjah by two reliable witnesses to prove the validity of the visibility of the moon of Shawwāl. If two trustworthy persons sight the moon of Shawwāl and bear witness to its appearance, the witness will be valid. There is no difference of opinion amongst scholars if the moon of Shawwāl is sighted by two reliable persons. But if the moon is sighted by one person, the acceptance of his witness is disputed. The majority of scholars hold that the witness of one person will not be accepted. 'Umar is reported to have validated the witness of one person to the appearance of the moon of al-Adḥā (Dhū al-Ḥijjah) and Shawwāl. A group of traditionists hold this view. They contend that it is only a matter of reporting and information, and not a matter of witness. The witness of one person is accepted in the case of the moon of Ramaḍān. Likewise, it should be accepted in the case of Shawwāl. But this contention is not sound. If a man simply reports and informs the people about the appearance of the moon, his report will not be recognised. It is necessary for him to give witness in a formal manner (*'Awn al-Ma'būd* II, 273).

bedouins came and witnessed before the Prophet (may peace be upon him) swearing by Allah that they had sighted the moon the previous evening. So the Apostle of Allah (may peace be upon him) commanded the people to break the fast.<sup>1662</sup>

The narrator Khalaf has added in his version : "and that they should proceed to the place of prayer (for 'Id)".

### Chapter 780

#### WITNESS OF A SINGLE PERSON TO THE APPEARANCE OF THE MOON OF RAMAḌĀN

(2333) Ibn 'Abbās said : A bedouin came to the Prophet (may peace be upon him) and said : I have sighted the moon. Al-Ḥasan added in his version : that is, of Ramaḍān. He asked : Do you testify that there is no god but Allah ? He replied : Yes. He again asked : Do you testify that Muḥammad is the Apostle of Allah ? He replied : Yes ; and he testified that he had sighted the moon. He said : Bilāl, announce to the people that they must fast tomorrow.<sup>1663</sup>

(2334) 'Ikrimah said : Once the people doubted the appearance of the moon of Ramaḍān, and intended neither to offer the *tarāwīḥ* prayer nor to keep fast. A bedouin came from al-Ḥarraḥ<sup>1664</sup> and testified that he had sighted the moon. He was brought to the Prophet (may peace be upon him). He asked : Do you testify that there is no god but Allah, and that I am the Apostle of Allah ? He said : Yes ; and he testified that he had sighted the moon. He commanded Bilāl who announced to the people to offer the *tarāwīḥ* prayer and to keep fast.

Abū Dāwūd said : A group of narrators has narrated it from Simāk on the authority of 'Ikrimah in *mursal* form (i.e. the name of the Companion is missing : 'Ikrimah has reported it directly from the Prophet). No one mentioned the offering of the *tarāwīḥ* prayer except Ḥammād b. Salamah.

(2335) Ibn 'Umar said : The people sighted the moon, so I informed the Apostle

1662. This shows that the witness of a reliable person is sufficient for the validity of the appearance of the moon of Ramaḍān. This view is held by al-Shāfi'ī, Aḥmad and Abū Ḥanīfah. Abū Ḥanīfah validates the witness of a slave, or a slave-girl or a free woman to the appearance of the moon of Ramaḍān. But he does not allow one witness in the case of the moon of Shawwāl. Al-Shāfi'ī does not allow the witness of a woman to the appearance of the moon of Ramaḍān as Abū Ḥanīfah allows. Mālik, al-Auzā'ī and Isḥāq b. Rāḥwaih do not validate the witness of a single person to the appearance of the moon of Ramaḍān as well as of Shawwāl. According to them, witness of two reliable persons is necessary both for Ramaḍān and for Shawwāl ('*Awn al-Ma'bud*, II, 274).

1663. This shows that the witness of a single person is sufficient for the appearance of the moon of Ramaḍān. This tradition is taken as an authority by those who take the information about the appearance of the moon of Ramaḍān as merely a report, and not as a formal witness.

1664. The name of a rocky ground near Medina. The rocks are black.



of Allah (may peace upon him) that I had sighted it. He fasted and commanded the people to fast.

### *Chapter 781*

#### EMPHASIS ON TAKING A MEAL SHORTLY BEFORE DAWN BEFORE FASTING DURING RAMAḌĀN

(2336) 'Amr b. al-'Āṣ reported the Apostle of Allah (may peace be upon him) as saying: The difference between our fasting and that of the people of the Book is eating shortly before dawn.<sup>1665</sup>

### *Chapter 782*

#### THOSE WHO CALL EATING SHORTLY BEFORE DAWN MORNING MEAL

(2337) Al-'Irbāḍ b. Sāriyah said: The Apostle of Allah (may peace be upon him) invited me to a meal shortly before dawn in Ramaḍān saying: Come to the blessed morning meal.<sup>1666</sup>

(2338) Abū Hurairah reported the Prophet (may peace be upon him) as saying: How good is the believers' meal of dates shortly before dawn.<sup>1667</sup>

### *Chapter 783*

#### THE TIME OF TAKING A MEAL SHORTLY BEFORE DAWN

(2339) Addressing (the people) Samurah b. Jundub reported the Apostle of Allah

1665. The people of the Book were not allowed to eat after sleeping. The Muslims were also not allowed to eat after sleeping in the beginning, when fasting was prescribed. But they could not tolerate this hardship, and Allah repealed this commandment, and provided facility for them to eat after sleeping. The Prophet (may peace be upon him) emphasised to take meal shortly before dawn before fasting.

1666. The Prophet (may peace be upon him) called this meal before dawn morning meal, for it provides energy to the people who keep fast, just as breakfast or morning meal provides energy to the people for day's work.

1667. This shows that one should eat a little, whether it may be a date, shortly before dawn when one commences the fast. Taking a meal before dawn is the *Sunnah* of the Prophet (may peace be upon him). One should not leave it before fasting.

(may peace be upon him) as saying : The *adhān* (call to prayer) of Bilāl should not prevent you from taking a meal shortly before dawn,<sup>1668</sup> nor does the whiteness of horizon (before dawn) in this way (vertically) until it spreads out horizontally.<sup>1669</sup>

(2340) ‘Abd Allah b. Mas‘ūd reported the Apostle of Allah (may peace be upon him) as saying : The summons (*adhān*) of Bilāl should not restrain one of you from taking a meal shortly before dawn, for he utters *adhān* or calls (for prayer) so that the man at prayer may return,<sup>1670</sup> and the man asleep may get up.<sup>1671</sup> Dawn is not (the whiteness) which indicates thus (in perpendicular)—the narrator Musaddad said : Yahyā joined his palms (indicating the spread of whiteness vertically—until it indicates thus—and Yahyā spread out two ring-fingers of his (demonstrating the spread of whiteness horizontally).

(2341) Qais b. Ṭalq reported the Apostle of Allah (may peace be upon him) on the authority of his father as saying : Eat and drink ; let not the white and ascending light prevent you from (eating and drinking) ; so eat and drink until the red light spreads horizontally.<sup>1672</sup>

Abū Dāwūd said : This tradition has been transmitted by the people of Yamāmah alone.

(2342) ‘Adī b. Ḥātim said : When the verse “Until the white thread of dawn appear to you distinct from its black thread”<sup>1673</sup> was revealed, I took a white rope and a black rope, and placed them beneath my pillow ; and then I looked at them, but they were not clear to me. So I mentioned it to the Apostle of Allah (may peace be upon him). He laughed and said : Your pillow is so broad and lengthy ; that is (i.e. means) night and day. The version of the narrator ‘Uthmān has : That is the blackness of night and whiteness of day.

1668. Bilāl uttered *adhān* before the break of dawn for *tahajjud* prayer (i.e. supererogatory prayer in the middle or towards the end of night). This was not meant for the dawn prayer. Hence the people could take their meal after this *adhān*.

1669. There are two kinds of dawn : false (*kādhīb*) and true (*ṣādiq*) The whiteness of false dawn spreads vertically. This is not the time for dawn prayer. Hence people are allowed to take meal at this time The whiteness of true dawn spreads in breadth, i.e. horizontally. This is the time for dawn prayer. When this whiteness spreads widely, people should abstain from taking a meal for keeping fast.

1670. This means that the man who is engaged in prayer may take rest.

1671. Those who are still sleeping may rise and take their meal before dawn.

1672. The light of false dawn is ascending upward (vertically) and is totally white ; the light of true dawn carries redness and spreads horizontally.

1673 Qur’ān, ii. 187. White and black threads in this Qur’ānic verse refer to day and night metaphorically. Here they are not meant literally. The Companion could not understand it.

## Chapter 784

ON A MAN WHO HEARS THE CALL TO PRAYER WHILE HE HAS  
A VESSEL IN HIS HAND

(2343) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: When any of you hears the summons to prayer while he has a vessel in his hand, he should not lay it down till he fulfils his need.<sup>1674</sup>

## Chapter 785

## TIME FOR BREAKING THE FAST

(2344) 'Umar reported the Prophet (may peace be upon him) as saying: When the night approaches from this side and the day retreats on that side, and the sun sets—according to the version of Musaddad—he who fasts has reached the time to break it.<sup>1675</sup>

(2345) 'Abd Allah b. Abī Awfā said: We went along with the Apostle of Allah (may peace be upon him) while he was fasting. When the sun set, he said to Bilāl: Bilāl, come down and prepare barley beverage for us. He said: Apostle of Allah, would that you waited for the evening. He said: Come down and prepare barley beverage for us. He said: Apostle of Allah, the day still remains on you (i.e. there remains the brightness of the day). He said: Come down and prepare barley drink for us.<sup>1676</sup> So he came down and prepared barley drink. The Apostle of Allah (may peace

1674. This means that he should complete his eating or drinking. Various explanations have been given by commentators for this tradition. The Prophet (may peace be upon him) allowed eating or drinking after the call to prayer when Bilāl uttered the *adhān*. He pronounced it, as noted before, for *tahajjud* prayer and not for dawn prayer. 'Abd Allah b. Umm Maktūm uttered the *adhān* for dawn prayer. Besides, if a man hears the call to prayer while he is eating or drinking, but he is doubtful about the break of dawn, he may continue his eating and drinking until he is sure of the break of dawn. According to a view, this means the darkness of dawn immediately after its beginning. One is allowed to eat just in the beginning and not when it becomes fairly light and the dawn becomes bright. According to another view, this is a facility provided by the Prophet (may peace be upon him) for a man who gets up late and has not much time to eat. Such a man should hasten in eating and complete it even after the summons to prayer ('*Awn ul-Ma'būd*, II, 277).

1675. This means that the darkness of night dominates and daylight disappears, and the sun has set—these are all symptoms that the time for breaking the fast has come. At this time one should break the fast and should not wait any longer.

1676. This shows that the Prophet (may peace be upon him) used to hasten to break the fast so much so that other people thought that the sun had not yet set. Bilāl was mistaken and hence was doubtful about the setting of the sun. As the Prophet (may peace be upon him) was sure that the sun had set, he insisted on breaking the fast. In a number of traditions the Prophet (may peace

be upon him) drank it and said : When you see that the night approaches from this side, he who fasts has reached the time to break it ; and he pointed to the east with his finger.<sup>1677</sup>

### Chapter 786

#### ON COMMENDATION OF HASTENING TO BREAK THE FAST

(2346) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Religion will continue to prevail as long as people hasten to break the fast, because the Jews and the Christians delay doing so.<sup>1678</sup>

(2347) Abū 'Aṭfyyah said : I and Masrūq entered upon 'Ā'ishah and we said : Mother of the believers, there are two persons from the Companions of Muḥammad (may peace be upon him). One of them hastens to break the fast and hastens to pray while the other delays to break the fast and delays praying <sup>1679</sup> She asked : Which of them hastens to break the fast and hastens to pray ? We replied : 'Abd Allah (b. Mas'ūd). She said : Thus did the Apostle of Allah (may peace be upon him) do.

### Chapter 787

#### THE THINGS WITH WHICH ONE SHOULD BREAK ONE'S FAST

(2348) Salmān b. 'Āmir reported the Apostle of Allah (may peace be upon him) as saying : When one of you is fasting, he should break his fast with dates ; but if he cannot get any, then (he should break his fast) with water, for water is purifying.<sup>1680</sup>

(2349) Anas b. Mālik said : The Apostle of Allah (may peace be upon him) used to break his fast before praying with some fresh dates ; but if there were no fresh

he upon him) has exhorted the people to hasten to break the fast. Hence he broke it immediately after the setting of the sun.

1677. This means the prevalence of darkness towards the east after the disappearance of the sun. One should not remain in doubt about the closing of the day when darkness dominates and the night approaches.

1678. There are a number of cases about which the commandments are opposed to the commandments given to the Jews and Christians. Muslims have their own laws which distinguish them from the followers of other religions. It is commendable to hasten to break the fast when the sun sets.

1679 The other who delayed to break the fast was Abū Mūsā. Ibn Mas'ūd followed the *Sunnah* of the Prophet (may peace be upon him) Abū Mūsā could not follow this owing to some excuse or valid reason.

1680. To break the fast with dates or water is commandable, and not necessary. If a man breaks his fast with something else, the breaking of the fast is valid.

dates, he had a few dry dates, and if there were no dry dates, he took some mouthfuls of water.

### Chapter 788

#### UTTERING PRAYER AT THE TIME OF BREAKING THE FAST

(2350) Marwān b. Sālim al-Muqaffa' said: I saw Ibn 'Umar holding his bread with his hand and cutting what exceeded the handful of it. He (Ibn 'Umar) told that the Prophet (may peace be upon him) said when he broke his fast: Thirst has gone, the arteries are moist, and the reward is sure, if Allah wills.

(2351) Mu'ādh b. Zuhrah said that the Prophet (may peace be upon him) used to say when he broke his fast: O Allah, for Thee I have fasted, and with Thy provision I have broken my fast.<sup>1681</sup>

### Chapter 789

#### TO BREAK FAST BEFORE SUNSET

(2352) Asmā' daughter of Abū Bakr said: We broke the fast one day during Ramaḍān when it was cloudy in the lifetime of the Apostle of Allah (may peace be upon him); then the sun rose. Abū Usāmah said: I said to Hishām: Were they commanded to atone for it? He replied: That was inevitable.<sup>1682</sup>

### Chapter 790

#### PERPETUAL FASTING<sup>1683</sup>

(2353) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) prohibited perpetual fasting. They (the people) said: You keep perpetual fasting, Apostle of

1681. It is commendable to utter any prayer which the Prophet (may peace be upon him) used to utter at the time of breaking his fast.

In this supplication people utter the following additional words: "In Thee I have believed, and in Thee I have trusted." These words have no basis. They are not found in any tradition. Hence people should utter the words that have occurred in this tradition.

1682. If someone breaks the fast by thinking that the sun has set, and it appears later on, he should keep one fast as an atonement after the month of Ramaḍān. Atonement is necessary. This is the view of the majority of the jurists, i.e. the Ḥanafis, Mālikis, Shāfi'is, and Ḥanbalis. But he should withhold himself from eating and drinking till sunset. Ishāq, al-Ḥasan al-Baṣrī and *Abū al-Zāhir* (i.e. Ibn Ḥazm and his followers) hold that atonement is not necessary. According to them, this is like eating or drinking during the fast in forgetfulness. This view is also held by Mujāhid, 'Aṭā' and 'Urwah b. al-Zubair (*Awn al-Ma'būd*, II, 279).

1683. *Ṣawm Wiḡāl* It means perpetual fasting without breaking it during night. This was permissible for the Prophet (may peace be upon him) but forbidden for the community. The Prophet



Allah. He said : My position is not like that of yours. I am provided with food and drink.

(2354) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying : Do not observe perpetual fasting. If any of you wants to observe perpetual fast, he should observe it until the dawn.<sup>1684</sup> They (the people) asked : You observe perpetual fast ? He replied : My position is not like that of yours. There is One Who gives me to eat, and there is One Who gives me to drink.

### Chapter 791

#### BACKBITING BY A MAN WHO IS FASTING

(2355) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : If anyone does not abandon falsehood and action in accordance with it, Allah has no need that he should abandon his food and drink.<sup>1685</sup>

The narrator Aḥmad (b. Yūnus) said : I learnt the chain of narrators from Ibn Abī Dhi'b, and a man by his side made me understand the tradition. I think he was his cousin.

(2356) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Fast is a shield ; when one of you is fasting, he should neither behave in an obscene manner nor foolishly. If a man fights him or abuses him, he should say : I am fasting, I am fasting.<sup>1686</sup>

(may peace be upon him) explained about his perpetual fasting that Allah provided for him food and drink. This has been interpreted in a twofold way. First, the Prophet (may peace be upon him) has possessed so much energy and strength that he could fast perpetually, but others had no such energy. Second, the Prophet (may peace be upon him) was actually provided with food and drink by Allah that was not intelligible to the people. The Muslims in general have been prohibited to observe perpetual fasting so that they may not lose energy to perform obligatory duties.

1684. The Prophet (may peace be upon him) prohibited Muslims to observe perpetual fast without breaking it as they have other duties to do. Addressing 'Abd'Allah b. al-ʿĀṣ he said : 'Fast and break your fast, get up for prayer and sleep, for you have a duty to your body, your eye, your wife and your visitors. Many who observe a perpetual fast never fast. Fasting three days every month is equivalent to a perpetual fast. Fast three days every month and recite the Qur'ān every month. When he replied that he was able to do more than that, he said : Observe the most excellent fast, that of David (Dāwūd), fasting every second day. . . ' Ai-Bukhārī and Muslim have transmitted this tradition.

1685. It is not enough to abandon food and drink during the fast. One should also abstain from falsehood, backbiting and other moral evils. If a man does not do so, his fast will be legally valid, but he will be deprived of the reward for the fast.

1686. A man who is fasting must abstain from involving in obscenity, quarrel, fighting, abusing, etc. If someone tries to involve him in such vile actions, he must keep himself away by saying that he is fasting.

## Chapter 792

## THE USE OF A TOOTH-STICK BY A MAN WHO IS FASTING

(2357) 'Āmir b. Rabī'ah said : I have seen the Apostle of Allah (may peace be upon him) using a tooth-stick while he was fasting.<sup>1687</sup> Musaddad added in his version : "more often than I could count."

## Chapter 793

CAN A MAN WHO IS FASTING POUR WATER OVER HIS HEAD  
DUE TO THIRST AND SNUFF WATER ABUNDANTLY  
TO HIS NOSTRILS ?

(2358) Abū Bakr b. 'Abd al-Rahmān reported on the authority of a Companion of the Prophet (may peace be upon him) : I saw the Prophet (may peace be upon him) commanding the people while he was travelling on the occasion of the conquest of Mecca not to observe fast. He said : Be strong for your enemy. The Apostle of Allah (may peace be upon him) fasted himself.<sup>1688</sup>

(2359) Abū Bakr said : A man who narrated this tradition to me said : I have seen the Apostle of Allah (may peace be upon him) in al-'Arj<sup>1689</sup> pouring water over his head while he was fasting, either because of thirst or because of heat.<sup>1690</sup>

(2360) Laqīṭ b. Šaburah reported the Apostle of Allah (may peace be upon him) as saying : Snuff up water freely unless you are fasting.<sup>1691</sup>

1687. According to the majority of scholars, it is commendable to use a tooth-stick during the fast. But a group of scholars hold that it is abominable to use a tooth-stick towards the end of the day so that the smell of the mouth may not be lost. This view is held by al-Shāfi'i, al-Auzā'i, Ibn 'Umar, 'Āṭā', and Mujāhid (*Awn al-Ma'būd*, II, 280).

1688 This shows that a man is allowed to postpone fast during the journey and when he is at war with the enemy. As much energy is required for fighting the enemy, one is allowed to abandon the fast and observe it later on.

1689. A big town at some distance from Medina.

1690. This indicates that a man who is fasting is allowed to take a bath or to pour water (over him) for getting cold. But it is not permissible to rinse the mouth with abundant water, or snuff it to the nostrils freely lest he should swallow it by mistake. There is a difference of opinion amongst scholars about the break of the fast if one swallows water while rinsing the mouth or snuffing the water by mistake. Abū Ḥanīfah, Mālik, al-Shāfi'i and Muzanī hold that this voids the fast. Aḥmad b. Ḥanbal, al-Auzā'i, and al-Shāfi'i (according to another statement of his) maintain that the fast does not become void. This is like eating or drinking in forgetfulness. Al-Ḥasan al-Baḡrī and al-Nakha'i hold the view the fast becomes void if it is not obligatory, that is, a supererogatory fast will become void (*Awn al-Ma'būd*, II, 280).

1691. While performing ablution or taking a bath one is required to rinse the mouth with abundant water and snuff it freely. But this is not allowed during the fast.

## Chapter 794

## CAN A MAN WHO IS FASTING CUP HIMSELF?

(2361) Thawbān reported the Prophet (may peace be upon him) as saying : A man who cupped and a man who has himself cupped broke their fast.<sup>1692</sup>

The narrator Shaibān said in his version : Abū Qilābah told me that Abū Asmā' al-Raḥbī told him that Thawbān, the client of the Apostle of Allah (may peace be upon him), told him that he heard the Prophet (may peace be upon him) say this.

(2362) The tradition mentioned above has also been transmitted by Shaddād b. Aws through a different chain of narrators. This version adds : While Shaddād b. Aws was walking along with the Prophet (may peace be upon him). . . . The narrator then transmitted the rest of the tradition to the same effect.

(2363) Shaddād b. Aws said : The Apostle of Allah (may peace be upon him) came to a man at al-Baqī'<sup>1693</sup> while he was cupping on the 18th of Ramaḍān ; he (the Prophet) was holding my hand. Thereupon he said : A man who cups and a man who gets himself cupped break their fast.<sup>1694</sup>

Abū Dāwūd said : The narrator Khālīd al-Ḥadhdhā' transmitted a similar tradition from Abū Qilābah through the chain of narrators mentioned by the narrator Ayyūb.

(2364) Thawbān, the client of the Prophet (may peace be upon him), reported the Prophet (may peace be upon him) as saying : A man who cups and a man who

1692. This tradition has been interpreted in a two-fold way : first, the fast becomes actually void by cupping ; second, the fast does not actually become void, but it is on the verge of voidance due to weakness of the man who gets himself cupped. As regards the man who cups, there is an apprehension of swallowing the blood as he sucks it with his mouth.

There is a difference of opinion among scholars about the voidance of the fast by cupping. According to Aḥmad b. Ḥanbal and Ishāq b. Rāhwaiḥ, the fast actually becomes void. Both of them should keep a fast later on as an atonement. But there is no expiation for it, i.e. they are not required to keep sixty fasts or feed sixty poor men. 'Aṭā' holds that one should keep a fast as an atonement and sixty fasts as an expiation. It is reported that Ibn 'Umar, Abū Mūsā al-Ash'arī and Anas b. Mālīk and some other Companions used to get themselves cupped at night during Ramaḍān. Masrūq al-Ḥasan and Ibn Sīrīn maintain that it is not advisable for a man who is fasting to have himself cupped. Al-Auzā'ī, Ibn al-Musayyab, al-Sha'bī and al-Nakha'ī disapprove of cupping while one is fasting owing to its weakening effect. But Sufyān al-Thawrī, Mālīk b. Anas, al-Shāfi'ī, and Abū Ḥanīfah hold that there is no harm by cupping during the fast. A man is allowed to get himself cupped while he is fasting if he thinks it necessary for him. In their opinion the fast does not become void (*'Awn al-Ma'būd*, II, 281).

1693. The name of the graveyard of Medina.

1694. Another interpretation of this tradition is that a man who cups and one who gets himself cupped should abandon the fast on that day, because the fast will break and they will have to atone for it.

gets himself cupped break their fast.

(2365) Thawbān reported the Prophet (may peace be upon him) as saying: A man who cups and a man who gets himself cupped break their fast.

Abū Dāwūd said: Ibn Thawbān transmitted a similar tradition from his father on the authority of Makhūl through the chain of narrators mentioned by him.

### Chapter 795

#### PERMISSION FOR CUPPING WHILE A MAN IS FASTING

(2366) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) had himself cupped when he was fasting.<sup>1695</sup>

Abū Dāwūd said: Wuhaib b. Khālīd narrated a similar tradition from Ayyūb through a different chain of narrators. Ja'far b. Rabī'ah and Hishām, that is, Ibn Ḥassān, narrated a similar tradition from 'Ikrimah on the authority of Ibn 'Abbās.

(2367) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) had himself cupped when he was fasting and wearing *ihrām* (pilgrim garb).

(2368) 'Abd al-Raḥmān b. Abī Lailā said: A man from the Companions of the Prophet (may peace be upon him) told me that the Apostle of Allah (may peace be upon him) prohibited cupping and perpetual fasting, but he had not made them unlawful showing mercy to his Companions. Thereupon he was asked: Apostle of Allah, you observe perpetual fast till dawn. He replied: I observe perpetual fast till dawn (for) my Lord gives me food and drink.

(2369) Anas said: We would not allow a man who was fasting to get himself cupped due to abomination of hardship.<sup>1696</sup>

### Chapter 796

#### ON A MAN WHO IS FASTING AND HAS A NOCTURNAL EMISSION DURING RAMAḌĀN

(2370) A man from the Companions of the Prophet (may peace be upon him) reported the Apostle of Allah (may peace be upon him) as saying: Neither vomiting,

1695. This shows that there is no harm in having oneself cupped while one is fasting as the Prophet (may peace be upon him) had done so. This obviously contradicts the tradition narrated by Thawbān. But that tradition has been interpreted variantly. One of them is that the fast does not become void.

1696. This shows that the Companions would not get themselves cupped because of weakness and hardship and not because of the fact that the fast broke by cupping.

nor emission, nor cupping breaks the fast of the one who is fasting.<sup>1697</sup>

### Chapter 797

#### APPLYING COLLYRIUM BY A MAN WHO IS FASTING AT TIME OF SLEEP

(2371) Ma'bad b. Hūdhah said: The Prophet (may peace be upon him) commanded to apply collyrium mixed with musk at the time of sleep. He said: A man who is fasting should abstain from it.<sup>1698</sup>

Abū Dāwūd said: Yaḥyā b. Ma'īn said to me: This tradition about the use of collyrium is *munkar* (i.e. contradicts the sound traditions on the subject).

(2372) 'Ubaid Allah b. Abī Bakr b. Anas reported on the authority of Anas b. Mālīk that he used to apply collyrium when he was fasting.<sup>1699</sup>

(2373) Al-A'mash said: I did not see any of our companions who abominated the use of collyrium by a man who was fasting. Ibrāhīm would permit the man who was fasting to apply collyrium with aloes.

### Chapter 798

#### INTENTIONAL VOMITING BY A MAN WHO IS FASTING

(2374) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: If one has a sudden attack of vomiting while one is fasting, no atonement is

1697. If a man vomits unintentionally, his fast will not break. If he does so intentionally, his fast becomes void. Emission and cupping also do not break the fast.

It may be noted that this tradition is weak. The chain of narrators contains a person who is obscure. This tradition has also been narrated by al-Tirmidhī. He says that the narrator of this tradition 'Abd al-Rahmān b. Zaid b. Aslam has been declared a weak traditionist. Yaḥyā b. Ma'īn observes that the traditions transmitted by the sons of Zaid b. Aslam are not reliable. This has also been narrated by Dāraqūṭnī on the authority of Abū Sa'īd al-Khudrī: Three things do not break the fast of one who is fasting: cupping, vomiting and emission. The chain of this tradition contains a narrator Hishām b. Sa'īd who is objectionable according to traditionists (*'Awn al-Ma'būd*, II, 282).

1698 On the basis of this tradition Ibn Shubrumah and Ibn Abī Lailā hold that the use of collyrium by a man who is fasting breaks the fast. The majority of scholars oppose this view. This tradition is weak in their opinion. The fast does not break by using the collyrium in daytime. Ibn Mājah recorded a tradition on the authority of 'Ā'ishah that the Prophet (may peace be upon him) used to apply collyrium while he was fasting during Ramaḍān (*'Awn al-Ma'būd*, II, 283).

1699 This shows that using collyrium during the fast does not make it void. It is permissible to apply collyrium while one is fasting.



required of him, but if he vomits intentionally he must make atonement.<sup>1700</sup>

Abū Dāwūd said : This tradition has also been narrated by Ḥafṣ b. Ghiyāth.

(2375) Abū al-Dardā' said : The Apostle of Allah (may peace be upon him) vomited and broke his fast. Then I met Thawbān, the client of the Apostle of Allah (may peace be upon him), in the mosque of Damascus, I said (to him) : Abū al-Dardā' has told me that the Apostle of Allah (may peace be upon him) vomited and broke his fast. He said : He spoke the truth ; and I poured out water for his ablution (may peace be upon him).<sup>1701</sup>

## Chapter 799

### ON KISSING BY A MAN WHO IS FASTING

(2376) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) used to kiss and embrace while he was fasting, but he was the one of you who had most control over his desire.<sup>1702</sup>

(2377) 'Ā'ishah said : The Prophet (may peace be upon him) used to kiss (me) during the month of fasting.

(2378) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) used to kiss me when he was fasting and when I was fasting.

(2379) 'Umar b. al-Khaṭṭāb said : I became gay and happy, so I kissed while I was fasting, I then said : Apostle of Allah, I have done a big deed ; I kissed while I was fasting. He said : What do you think if you rinse your mouth with water while

1700. This shows that if a man has an attack of vomiting while he is fasting, he is not required to make atonement. Unintentional vomiting does not make the fast void. If he vomits intentionally he shall make atonement, but expiation (i.e. sixty fasts) is not necessary.

1701. He might have had the attack of vomiting. Hence he did not atone for the fast. If a man vomits intentionally, he must atone for it. But there is a difference of opinion about expiation. The majority of scholars hold that there is no expiation (i.e. sixty fasts) if a man vomits intentionally. 'Aṭā', al-Auzā'i, and Abū Thawr maintain that he should expiate as well as atone for it ('*Awān al-Ma'būd*, II, 284).

1702. Kissing is permissible for a man who is fasting, provided it does not provoke his desire. But it is better to avoid it during the fast. In case it provokes one's sexual desire, it is unlawful for him. A group of the Companions, of the Successors, Aḥmad, Ishāq and Dāwūd allow it unconditionally. Mālik takes it as abominable absolutely. Ibn 'Abbās, Abū Ḥanīfah, al-Thawrī, al-Auzā'i and al-Shāfi'i maintain that kissing during the fast by the youths is disapproved, but the old people are allowed to do so. According to another statement. Mālik is reported to have held this view. He is also reported to have held that kissing is permissible in the case of supererogatory fast, and in the case of obligatory one. The fast does not break by kissing except in the case of omission ('*Awān al-Ma'būd*, II, 284).

you are fasting ?<sup>1703</sup> The narrator 'Īsā b. Ḥammād said in his version : I said to him : There is no harm in it. Then both of them agreed on the version : He said : Then what ?

### *Chapter 800*

#### ON A MAN WHO SWALLOWS THE SALIVA WHILE HE IS FASTING

(2380) 'Ā'ishah said : The Prophet (may peace be upon him) used to kiss her and suck her tongue when he was fasting.<sup>1704</sup>

Ibn al-A'rābī said : It has reached me from Abū Dāwūd that he said : This chain of narrators is not sound.

### *Chapter 801*

#### DISAPPROVAL OF EMBRACING WIFE BY A YOUTH WHO IS FASTING

(2381) Abū Hurairah said : A man asked the Prophet (may peace be upon him) whether one who was fasting could embrace<sup>1705</sup> (his wife) and he gave him permission ; but when another man came to him, and asked him, he forbade him. The one to whom he gave permission was an old man and the one whom he forbade was a youth.

### *Chapter 802*

#### ON A MAN WHO IS FASTING GETS UP IN THE MORNING WHILE HE IS SEXUALLY DEFILED DURING THE MONTH OF RAMADĀN

(2382) 'Ā'ishah and Umm Salamah, wives of the Prophet (may peace be upon him), said : The Apostle of Allah (may peace be upon him) would be overtaken by the

1703. The Prophet (may peace be upon him) compared the kissing during the fast with rinsing the mouth. By this analogy he sought to show that the fast does not become void by kissing.

1704. It may be noted that swallowing the saliva of another person by a man who is fasting makes the fast void. This opinion is held unanimously by scholars in general. If one swallows one's own saliva, there is no harm in it. This tradition is not sound, as Abū Dāwūd himself said.

1705. The Arabic word is *mubdasharah* meaning embracing a woman, or hugging her, or touching her body with one's own body without wrapper. A man who is fasting is allowed to touch the body of a woman or to embrace her, provided he is not moved to sexual desire. But this is permissible for old men and not for youths.

dawn when he was in a state of sexual defilement. The narrator 'Abd Allah al-Adhramī said in his version: During Ramaḍān, due to sexual intercourse and not owing to a dream (i.e. nocturnal emission), and would fast.<sup>1706</sup>

Abū Dāwūd said: How brief is this sentence uttered by the narrator, this is, "he was overtaken by dawn when he was in the state of sexual defilement"? The tradition says: The Prophet (may peace be upon him) was overtaken by dawn in the state of sexual defilement when he was fasting.<sup>1707</sup>

(2383) 'Ā'ishah, wife of the Prophet (may peace be upon him), said: A man said to the Apostle of Allah (may peace be upon him): Apostle of Allah, I was overtaken by dawn while I was sexually defiled, and I want to keep fast. The Apostle of Allah (may peace be upon him) said: I am also overtaken by dawn while I am in the state of sexual defilement; I also want to keep fast. I take a bath and I keep fast. The man said: Apostle of Allah, you are not like us; Allah has forgiven you your past and future sins. The Apostle of Allah (may peace be upon him) became angry and said: I swear by Allah, I hope I shall be the most fearful of you of Allah, and most familiar of you with what I follow.

### Chapter 803

#### ON THE EXPIATION BY A MAN WHO HAS SEXUL INTERCOURSE WITH HIS WIFE DURING RAMAḌĀN

(2384) Abū Hurairah said: A man came to the Prophet (may peace be upon him) and said: I am undone. He asked him: What has happened to you? He said: I had intercourse with my wife in Ramaḍān (while I was fasting). He asked: Can you set a slave free? He said: No. He again asked: Can you fast for two consecutive months? He said: No. He asked: Can you provide food for sixty poor people? He said: No. He said: Sit down. Then a huge basket containing dates (*'araq*) was brought to the Prophet (may peace be upon him). He then said to him: Give it as *ṣadaqah* (i.e. alms). He said: Apostle of Allah, there is no poorer family than mine between the two lava plains of it (Medina). The Apostle of Allah (may peace be upon him) laughed so that

1706. This shows that if a man is overtaken by dawn in the state of sexual defilement due to intercourse or dream at night, he is allowed to keep fast. This view is held by the majority of Companions, Successors and scholars. There is consensus of opinion on this view. There is no difference of opinion now on this question. If a woman is purified from her menstruation or bleeding after childbirth at night, and she is overtaken by dawn, and is unable to take a bath at night, she must keep fast and take a bath after she has begun the fast. Her fast will be valid. This is unanimously held by scholars (*'Awn al-Ma'būd*, II, 285).

1707. 'Abd Allah al-Adhramī mentioned the words "during Ramaḍān," while others did not mention these words. This tradition has been transmitted through many chains of narrators but there is no mention of the words "during Ramaḍān" in them (*'Awn al-Ma'būd*, II, 285).

his eye-teeth became visible, and said: Give it to your family to eat.<sup>1708</sup> Muṣaddad said in another place: "his canine teeth"

(2385) This tradition has also been transmitted by al-Zuhri through a different chain of narrators to the same effect. Al-Zuhri added in his version: This was a special concession for him. If a man commits this act today, the expiation is necessary for him.<sup>1709</sup>

Abū Dāwūd said: Al-Laith b. Sa'd, al-Auzā'i, Maṣṣūr b. al-Mu'tamir and 'Irāk b. Mālik have narrated this tradition like the one narrated by Ibn 'Uyainah. Al-Auzā'i narrated in his version the words: Beg pardon of Allah.

(2386) (Abū Hurairah said: A man broke his fast intentionally) during Ramaḍān. The Apostle of Allah (may peace be upon him) commanded him to emancipate a slave, or fast for two months, or feed sixty poor men. He said: I cannot provide. The Apostle of Allah (may peace be upon him) said: Sit down. Thereafter a huge basket of dates ('araq) was brought to the Apostle of Allah (may peace be upon him). He said: Take this and give it as *ṣadaqah* (alms). He said: Apostle of Allah, there is no one poorer than I. The Apostle of Allah (may peace be upon him) thereupon laughed so that his canine teeth became visible and said: Eat it yourself.

Abū Dāwūd said: Ibn Juraij narrated it from al-Zuhri in the wordings of the narrator Mālik that a man broke his fast. This version says: You should either free a slave, or fast for two months, or provide food for sixty poor men.

(2387) Abū Hurairah said: A man came to the Prophet (may peace be upon him).

1708. If a man has sexual intercourse intentionally with his wife during Ramaḍān while he is fasting, he should keep one fast as an atonement and expiate for it. The expiation is either to free a slave, or to keep sixty fasts consecutively, or to provide food for sixty poor men. This view is held unanimously by scholars. But Sa'id b. Jubair, Ibrāhīm al-Nakha'i and Qatādah maintain that he should make an atonement for it, i.e. keep one fast; but no expiation is necessary. It seems that they did not know the tradition narrated by Abū Hurairah. One should observe the expiation in the following order: freeing a slave, keeping sixty fasts and feeding sixty poor men. If a man is able to free a slave, it is not lawful for him to keep sixty fasts and feed sixty poor men. This opinion is held by the majority of scholars. Mālik holds that he has a choice between freeing a slave, keeping fast and feeding the poor.

Mālik and al-Shāfi'i maintain that one mudd of food will be given to each poor man in expiation for the fast. Abū-Hanīfah holds that half ṣā' of food will be provided for each poor man. In addition to expiation one should keep one fast as atonement. Most of scholars hold that the wife should also expiate as her fast becomes void. Expiation is binding on her. But al-Shāfi'i holds that it is not necessary for his wife to expiate. The expiation of the husband is sufficient ('*Awn al-Ma'būd* II, 287).

1709. This does not mean that expiation was not necessary for that man. The Prophet (may peace be upon him) in fact gave him some time as he was not immediately capable of expiating for his sin. At that time the Prophet (may peace be upon him) helped him financially as he was the poorest of the people of Medina. Some scholars hold that no expiation is necessary for a poor man ('*Awn al-Ma'būd*, II, 287).

He broke his fast during Ramaḍān. He then narrated the rest of this tradition adding: Then a huge basket containing fifteen ṣā's of dates was brought to him. He said: Eat it yourself and your family and keep one fast and beg pardon of Allah.

(2388) 'Ā'ishah, wife of the Prophet (may peace be upon him), said: A man came to the Prophet (may peace be upon him) during Ramaḍān in the mosque. He said: Apostle of Allah, I am burnt.<sup>1710</sup> The Prophet (may peace be upon him) asked him what had happened to him. He said: I had sexual intercourse with my wife. He said: Give *ṣadaqah* (alms). He said: I swear by Allah, I possess nothing with me, and I cannot do this. He said: Sit down. He then sat down. While he was waiting, a man came forward driving his donkey loaded with food. The Apostle of Allah (may peace be upon him) said: Where is the man who was burnt just now? Thereupon the man stood up. The Apostle of Allah (may peace be upon him) said: Give it as *ṣadaqah* (alms). He asked: Apostle of Allah, to others than us? By Allah, we are hungry; we have nothing (to eat). He said: Eat it yourselves.

(2389) The tradition mentioned above has also been transmitted by 'Ā'ishah through a different chain of narrators. This version adds: A huge basket containing twenty ṣā's (of dates) was brought.

### Chapter 804

#### REMONSTRATION FOR A MAN WHO BREAKS HIS FAST INTENTIONALLY

(2390) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: If any one breaks his fast one day in Ramaḍān without a concession granted to him by Allah,<sup>1711</sup> a perpetual fast will not atone for it.<sup>1712</sup>

(2391) The tradition mentioned above has also been transmitted by Abū Hurairah through a different chain of narrators similar to the tradition narrated by Ibn Kathīr and Sulaimān.

Abū Dāwūd said: Sufyān and Shu'bah differed among themselves on the name of the narrator Ibn al-Muṭawwas and Abū al-Muṭawwas.

### Chapter 805

#### ON A PERSON WHO EATS IN FORGETFULNESS WHILE HE IS FASTING

(2392) Abū Hurairah said: A man came to the Prophet (may peace be upon him)

1710. This means that he has committed a sin which might lead him to Hell.

1711. This means illness or journey.

1712. This tradition indicates the significance and greatness of reward for the fast during Ramaḍān. No fast can be equated with the fast of Ramaḍān.



and said : Apostle of Allah, I ate and drank in forgetfulness when I was fasting. He said : Allah has fed you and given you drink.<sup>1713</sup>

### Chapter 806

#### DELAY IN ATONING FOR FASTS NOT OBSERVED IN RAMAḌĀN

(2393) 'Ā'ishah said : If I had some part of the fast of RamaḌān to make up, I would not be able to atone for it except in Sha'bān.<sup>1714</sup>

### Chapter 807

#### ON A PERSON WHO DIES WHEN SOME FAST OF RAMAḌĀN IS DUE FROM HIM

(2394) 'Ā'ishah reported the Prophet (may peace be upon him) as saying : If any one dies when some fast is due from him (i.e. which he could not keep) his heir must fast on his behalf.<sup>1715</sup>

Abū Dāwūd said : This applies to the fast which a man vows ; and this is the opinion of Aḥmad b. Ḥanbal.

(2395) Ibn 'Abbās said : If a man falls ill during RamaḌān and he dies, while he could not keep fast, food will be provided (for the poor men) on his behalf ; there is no atonement (for his fasts) due from him. If there is some vow which he could not fulfil, his heir must atone on his behalf.<sup>1716</sup>

1713. If a man forgets when he is fasting and eats or drinks, he should complete his fast. He is not required to atone for it, as if Allah had fed him and given him drink.

1714. She delayed the atonement for the fast of RamaḌān which she had abandoned due to some valid reason till Sha'bān as she remained engaged in works and duties to the Prophet (may peace be upon him). Since the Prophet (may peace be upon him) himself kept fasts during Sha'bān, she also kept fasts in that month.

1715. This refers to the fast binding on a person due either to his vow or abandoning the fast of RamaḌān. Aḥmad and Ishāq maintain that if a man dies and he could not atone for the fast that he missed during RamaḌān, or he could not fulfil his vow, his heir must fast after his death. This is also held by the Zāhirīs and the traditionists. But Mālik, al-Shāfi'ī and Abū Ḥanīfah hold that it is not lawful for a man to fast on behalf of another man. His heir must give ransom (i.e. feed a poor man both times) for each fast (*'Aww al-Ma'būd* II, 289).

1716. This tradition clearly shows that the heir must atone for the fast on account of vow and not for RamaḌān. In case a man could not keep fasts of RamaḌān due to illness and he could not recover from it, food will be provided for poor men by his heir on his behalf. There is no atonement of fasts due from him.

It may be noted that the tradition of Ibn 'Abbās explains the tradition of 'Ā'ishah which is absolute, while the latter is conditional.

## Chapter 808

## FASTING WHILE ON A JOURNEY

(2396) 'Ā'ishah said: Ḥamzat al-Aslamī asked the Prophet (may peace be upon him): Apostle of Allah, I am a man who keeps perpetual fast; may I fast while on a journey? He replied: Fast if you like, or break your fast if you like.<sup>1717</sup>

(2397) Ḥamzat al-Aslamī reported: I said: Apostle of Allah, I am a master of mounts and I use them! I myself travel on them and I rent them. This month, that is, Ramaḍān, happens to come to me (while I am on a journey), and I find myself strong enough (to fast) as I am young, and I find that it is easier for me to fast than to postpone it, and it becomes a debt due from me. Does it bring me more reward, Apostle of Allah, if I fast, or if I break? He replied: Whichever you like, Ḥamzah.

(2398) Ibn 'Abbās said: The Prophet (may peace be upon him) left Medina for Mecca till he reached 'Uṣfān,<sup>1718</sup> He then called for a vessel (of water). It was raised to his mouth to show it to the people, and that was in Ramaḍān. Ibn 'Abbās used to say: The Prophet (may peace be upon him) fasted and he broke his fast. He who likes may fast and he who likes may break.

(2399) Anas said: We travelled along with the Prophet (may peace be upon him) during Ramaḍān. Some of us were fasting and others broke their fast. Those who fasted did not find fault with those who broke, and those who broke their fast did not find fault with those who fasted.

(2400) Qaza'ah said: I came to Abū Sa'īd al-Khudrī while he was giving his legal opinion to the people who bent down on him. So I waited to see him when he was alone. When he became alone, I asked him about keeping fast while travelling. He said: We went out along with the Prophet (may peace be upon him) in Ramaḍān in the year of the conquest of Mecca. The Apostle of Allah (may peace be upon him) fasted and we fasted until he reached a certain stage. He said: You have come near your enemy; the breaking of fast will bring you more strength. Then morning came when some of us fasted and others broke their fast. He (Abū Sa'īd al-Khudrī) said.

1717. It depends on the convenience of a traveller to keep or break his fast while on a journey. The Qur'ān has also permitted the travellers to postpone their fast while travelling. It is disputed among scholars whether it is better to fast on a journey or break it. A group holds that it is better to break it. This is the opinion of Sa'īd b. al-Musayyab, al-Sha'bī, al-Auzā'ī, Aḥmad b. Ḥanbal and Ishāq b. Rāhwaiḥ. Another group maintains that fasting is better. This view is held by Anas b. Mālik, 'Uthmān b. Abī al-'Āṣ, al-Nakha'ī, Sa'īd b. Jubair, Mālik, al-Thawrī, al-Shāfi'ī and Abū Ḥanīfah. A third group is of view that it depends on the convenience of a traveller. He may fast or break the fast, as he likes. This is held by Mujāhid, 'Umar b. 'Abd al-'Azīz and Qatādah (*Awn al-Ma'būd*, II, 290).

1718. The name of a place two stages distant from Mecca.

We then proceeded and alighted at a stage. He said : You are going to attack your enemy tomorrow morning ; breaking the fast will bring you more strength ; so break your fast (i.e. do not keep fast).<sup>1719</sup> This resolution (of breaking the fast) took place (due to the announcement) from the Apostle of Allah (may peace be upon him).

Abū Sa'īd said : Then I found myself keeping fast along with the Prophet (may peace be upon him) before and after that.

### Chapter 809

#### IT IS PREFERABLE TO BREAK FAST WHILE ON A JOURNEY

(2401) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) saw a man who had been put in the shade and saw a crowd of people around him (in the course of a journey). He said : Fasting while on journey is not a part of righteousness.<sup>1720</sup>

(2402) Anas b. Mālik, a mah from Banū 'Abd Allah b. Ka'b, brethren of Banū Qushair (not Anas b. Mālik, the well-known Companion), said : A contingent from the cavalry of the Apostle of Allah (may peace be upon him) raided us. I reached (or he said went) to the Apostle of Allah (may peace be upon him) who was taking his meals. He said : Sit down, and take some from this meals of ours. I said : I am fasting, he said : Sit down, I shall tell you about prayer and fasting. Allah has remitted half the prayer to a traveller, and fasting to the traveller, the woman who is suckling an infant and the woman who is pregnant.<sup>1721</sup> I swear by Allah, he mentioned both (i.e. suckling and pregnant women) or one of them. I was grieved for not taking the food of the Apostle of Allah (may peace be upon him).

### Chapter 810

#### THE VIEW THAT IT IS PREFERABLE TO KEEP FAST WHILE ON A JOURNEY

(2403) Abū al-Dardā' said : We went out along with the Apostle of Allah (may

1719. This shows that Muslims can break their fast while engaged in battle with their enemy.

1720. Fasting while on a journey is better if a man is strong enough to endure its hardship. In case he is weak and cannot endure the hardship, it is then better for him to break the fast and atone for it later on.

1721. The traveller is required to shorten his prayer. He should offer two *rah'a's* instead of four *rah'a's*. He has been permitted to break fast while travelling and atone for his fast later on. A pregnant woman and a woman who is suckling an infant may abandon their fast to avoid any harm to the infant or embryo. Mujāhid, al-Shāfi'i and Ahmad b. Hanbal maintain that they should atone for their fast and feed the poor men too. Mālik holds that a pregnant woman should only atone for

peace be upon him) for some battle in intense heat, so much so that one of us placed his hand on his head, or placed his palm on his head, due to the intensity of heat, No one of us fasted except the Apostle of Allah (may peace be upon him) and 'Abd Allah b. Rawāḥah.<sup>1722</sup>

(2404) Salamah b. al-Muḥabbaq al-Hudhalī reported on the authority of his father : The Apostle of Allah (may peace be upon him) said : If anyone has a riding beast which carries him to where he can get sufficient food, he should keep the fast of Ramaḍān wherever he is when it comes.<sup>1723</sup>

(2405) Salamah b. al-Muḥabbaq reported the Apostle of Allah (may peace be upon him) as saying : If anyone is on a journey and Ramaḍān comes. . . . He then narrated the rest of the tradition to the same effect.

### Chapter 811

#### WHEN SHOULD THE TRAVELLER START BREAKING HIS FAST WHEN HE GOES OUT

(2406) Ja'far b. Jubair said : I accompanied Abū Buṣrah al-Ghifārī, a Companion of the Apostle of Allah (may peace be upon him), in a boat proceeding from al-Fuṣṭāṭ (Cairo) during Ramaḍān. He was lifted (to the boat), then his meal was brought to him. The narrator Ja'far said in his version : He did not go beyond the houses (of the city) but he called for the dining sheet. He said (to me) : Come near. I said : Do you not see the houses ? Abū Buṣrah said : Do you detest the *sunnah* (practice) of the Apostle of Allah (may peace be upon him) ? The narrator Ja'far said in his version : He then ate (it).<sup>1724</sup>

the fast ; she is not required to feed poor men. A suckling woman should atone for the fast and feed poor men. Al-Ḥasan, 'Aṭā', al-Auzā'ī, al-Thawrī and Abū Ḥanīfah hold that they should only make an atonement. Feeding is not necessary ('*Awn al-Ma'būd*, II, 291-92).

1722. This shows that it depends on one's strength and stamina to keep fast while travelling.

1723. This means that if the journey is short and one can reach one's destination in a day, and does not feel hardship during the journey, it is better to keep the fast, but not necessary.

It may be noted that 'Abd al-Ṣamad b. Ḥabīb al-Azdī, a narrator of this tradition, is not a reliable person. This tradition is therefore, weak.

1724. This shows that the traveller may take his food when he starts his journey. It is not necessary that he takes his food when he is far off from the city. But this is in case a man does not keep fast. If he keeps fast and starts his journey, he should not break his fast. Rather he should not abandon the fast the day he sets out on a journey. But it is not binding. He may leave it if he feels inconvenient. It may be noted that one should not break the fast after one has kept it. This view is held by Abū Ḥanīfah, Mālik, al-Shāfi'ī, al-Auzā'ī, Makhūl, al-Nakha'ī and al-Zuhrī. But al-Sha'bi and Ahmad b. Ḥanbal maintain that a man may break his fast after he has kept it while on a journey ('*Awn al-Ma'būd*, II, 293).

## Chapter 812

THE DISTANCE OF A JOURNEY WHERE A TRAVELLER IS  
PERMITTED TO BREAK HIS FAST

(2407) Maṣṣūr al-Kalbī said: Dīḥyah b. Khalīfah<sup>1725</sup> once went out from a village of Damascus at as much distance as it measures between 'Aqabah and al-Fuṣṭāṭ<sup>1726</sup> during Ramaḍān; and that is three miles. He then broke his fast and the people broke their fast along with him. But some of them disliked to break their fast. When he came back to his village, he said: I swear by Allah, today I witnessed a thing of which I could not even think to see. The people detested the way of the Apostle of Allah (may peace be upon him) and his Companions. He said this to those who fasted.<sup>1727</sup> At this moment he said: O Allah, make me die.

(2408) Nāfi' said: Ibn 'Umar used to go out to al-Ghābah<sup>1728</sup> (jungle), but he neither broke his fast, nor shortened his prayer.<sup>1729</sup>

## Chapter 813

## ON A PERSON WHO SAYS: I FASTED THE WHOLE OF RAMAḌĀN

(2409) Abū Bakrah reported the Apostle of Allah (may peace be upon him) as saying: One of you should not say: I fasted the whole of Ramaḍān, and I prayed during the night in the whole of Ramaḍān.<sup>1730</sup> I do not know whether he disliked

1725 The name of a Companion of the Prophet (may peace be upon him) who was settled in al-Mizzah.

1726. He travelled from al-Mizzah, the place of his residence, to a certain place near Damascus at a distance of three miles. The distance between 'Aqabah and al-Fuṣṭāṭ is three miles as the tradition itself indicates.

1727. This tradition is a basis for the view that a traveller can break his fast while on a short journey. According to Abū Ḥanīfah, a man can break his fast during a journey which is covered in three nights, i.e. forty-eight miles. Al Shāfi'ī and the majority of scholars of the Ḥijāz maintain that it should be covered in two nights.

It may be noted that this tradition is not sound. It is weak. Bashīr b. Abī Maṣṣūr al-Kalbī, a narrator of this tradition, is obscure (*'Awn al-Ma'būd*, II, 294).

1728. The name of a place near Medina.

1729. This shows that it is not permissible to abandon the fast and shorten the prayer on a short journey. Ibn 'Umar did not break fast and shorten his prayer as he was not away from Medina. This concession can be availed of at a distance prescribed for the journey.

1730. As this shows pride in one's actions, the Prophet (may peace be upon him) prohibited to make such a statement. Even after doing good actions and showing obedience to Allah, a Muslim must show his submissiveness and humility to Him instead of showing self-conceit and pride. One does not know whether one's actions have been accepted by Allah or not.



the purification ; or he (the narrator) said : He must have slept a little<sup>1731</sup> and taken rest.

### Chapter 814

#### FASTING ON 'ID AL-FIṬR AND 'ID AL-AḌḤĀ

(2410) Abū 'Ubaid said : I attended the 'Id (prayer) along with 'Umar. He offered prayer before the sermon. He then said : The Apostle of Allah (may peace be upon him) prohibited fasting on these two days. As regards 'Id al-AḌḤĀ, you eat the meat of your sacrificial animals. As for 'Id al-Fiṭr, you break (i.e. end) your fast.<sup>1732</sup>

(2411) Abū Sa'Id al-Khudrī said : The Apostle of Allah (may peace be upon him) forbade fasting on two days, al-Fiṭr (breaking the fast of Ramaḍān) and al-AḌḤĀ (the day of sacrifice), and wearing a tight single garment the raising of which discloses private parts,<sup>1733</sup> and sitting with one's legs drawn up and wrapped in one's garment,<sup>1734</sup> and forbade praying at two hours, after the dawn prayer and after the afternoon prayer.

### Chapter 815

#### FASTING ON THE DAYS OF *AL-TASHRIQ*<sup>1735</sup>

(2412) Abū Murrāh, the client of Umm Hānī, entered along with 'Abd Allah b.

1731. The words "I do not know" were uttered by al-Ḥasan al-Raṣrī.

1732. To keep fast on 'Id al-Fiṭr and 'Id al-AḌḤĀ is unlawful. A consensus of opinion has been reached on this question. Similarly, it is not lawful to keep fast on the 11th, 12th and 13th of Dhū al-Ḥijjah. No type of fast, voluntary, on account of making a vow or atonement, is permissible on these five days. If a man makes a vow to fast on these days, his vow will not be valid according to al-Shāfi'ī and the majority of scholars. He will not have to make an atonement for it. According to Abū Ḥanīfah, his vow will be valid, but he should not keep fast on these days. He should fast on some other day as an atonement (*'Awn al-Ma'būd*, II, 295).

1733. If a man wraps a garment tightly round his body and does not wear any other clothe to cover his private parts, and then he raises the hands or lifts his clothe to his shoulder, his private parts will be disclosed. This sort of wearing a clothe is called *ṣammā'*. The Prophet (may peace be upon him) forbade this, as there is apprehension of disclosing private parts.

1734. *Ḥabwah* or *ḥabibā'* means to sit with one's legs drawn up, raising the knees to one's stomach, and wrapped in a single garment. To sit in this condition has been prohibited as there is apprehension of disclosing private parts (*'Awn al-Ma'būd*, II, 295).

1735. This means the three days after the sacrifice on the tenth of Dhū al-Ḥijjah, 11th, 12th and 13th of Dhū al-Ḥijjah. The name *tashriq* is said to have been given because the flesh of the sacrificial animals is cut into strips and placed into sun for drying. These days are also known as *al-Ayyām al-Ma'dudda* and *Ayyām Minā*.

'Amr upon his father 'Amr b. 'Āṣ, and he brought food before him. He said : Eat, He said : I am fasting. 'Amr said : Eat ; these are the days on which the Apostle of Allah (may peace be upon him) used to command us to break fast, and forbid us to keep fast. The narrator Mālik said : These are the days of *al-tashriq*, (i.e. 11th, 12th and 13th of Dhū al-Ḥijjah).<sup>1736</sup>

(2413) 'Uqbah b. 'Āmir reported the Apostle of Allah (may peace be upon him) as saying : The day of 'Arafah,<sup>1737</sup> the day of sacrifice, the days of *tashriq* are (the days of) our festival, O people of Islam. These are the days of eating and drinking.<sup>1738</sup>

### Chapter 816

#### PROHIBITION OF FASTING EXCLUSIVELY ON FRIDAY

(2414) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : None of you must fast on a Friday unless he fasts the day before or the day after.<sup>1739</sup>

1736. Abū Ḥanīfah and al-Shāfi'i observe that it is not lawful to keep any fast on the three days of *al-tashriq*. A group of scholars maintain that it is permissible to keep voluntary fast on these days. Al-Zubair b. al-'Awwām, Ibn 'Umar and Ibn Sīrīn are reported to have held this view. Mālik, al-Auzā'i, Ishāq and al-Shāfi'i (according to another statement) maintain that fasting on these days is permissible for a pilgrim who performs *ṣaṭṭu* ('*Umrāh* and then *Ḥajj* severally and not continuously) and who is not able to sacrifice. But it is not permissible for any other man. They argue on the basis of a tradition narrated by al-Bukhārī on the authority of Ibn 'Umar and 'Ā'ishah. This tradition says that no one is allowed to fast on these days except a pilgrim who is unable to sacrifice ('*Awn al-Ma'būd*, II, 295).

1737. The day of 'Arafah means 9th of Dhū al-Ḥijjah. The pilgrims who are present at 'Arafah are prohibited to keep fast. This is a recommendation from the Prophet (may peace be upon him) so that the pilgrims may not become weak. If someone is strong enough, he may keep fast on this day. Those who are not present at 'Arafah are allowed to fast on the 9th of Dhū al-Ḥijjah. It is commendable to fast on this date ('*Awn al-Ma'būd*, II, 301).

1738. It is not lawful to fast on the days of *tashriq*. This includes voluntary fast, fast by making a vow and the fast of a pilgrim who performs *ṣaṭṭu* in case he did not keep fast for three days out of ten fasts incumbent on him. This view is held by 'Alī, al-Ḥasan, 'Aṭā' and al-Shāfi'i. Mālik al-Auzā'i and Ishāq b. Rāhwaiḥ hold that a pilgrim who performs *ṣaṭṭu* may fast for three days in case he could not fast for three days out of ten fasts before. Ibn 'Umar, 'Ā'ishah and 'Urwah b. al-Zubair are reported to have held this view ('*Awn al-Ma'būd*, II, 295).

1739. The reason for disapproval of fasting on Friday is that it is meant for worship and praying to God. But he who fasts the day before or the day after is allowed to fast on Friday. Similarly, he who is accustomed to fast three days every month, and one of his fasts lies on Friday, is permitted to fast. If a man makes a vow to keep fast on this day, he may fast. To break fast on Friday is designed to preserve strength and attain energy for worship and prayer.

### Chapter 817

#### PROHIBITION OF FASTING PARTICULARLY ON SATURDAY

(2415) 'Abd Allah b. Busr, on the authority of his sister al-Šammā', reported the Prophet (may peace be upon him) as saying: Do not fast on Saturday except what has been made obligatory on you; and if one of you can get nothing but a grape skin or a piece of wood from a tree, he should chew it.<sup>1740</sup>

Abū Dāwūd said: This tradition has been abrogated.

### Chapter 818

#### PERMISSION FOR FASTING ON SATURDAY

(2416) Juwairiyah, daughter of al-Ḥārith, said that the Prophet (may peace be upon him) entered upon her on Friday while she was fasting. He asked: Did you fast yesterday? She said: No. He again asked: Do you intend to fast tomorrow? She said: No. He said: So break your fast.<sup>1741</sup>

(2417) Al-Laith said: When it was mentioned to Ibn Shihāb (al-Zuhri) that fasting on Saturday had been prohibited, he would say: This is a Ḥimṣī tradition.<sup>1742</sup>

(2418) Al-Auzā'i said: I always concealed it, but I found that it became known widely, that is, the tradition of Ibn Busr about fasting on Saturday.

Abū Dāwūd said: Mālik said: This is a false (tradition).

### Chapter 819

#### ON VOLUNTARY PERPETUAL FASTING

(2419) Abū Qatādah said: A man came to the Prophet (may peace be upon him)

1740. Fasting on Friday or Saturday is prohibited when a man chooses these days as particular days for fasting, and does not fast the day before or after. By prohibition of fasting on Saturday it is meant to oppose the Jews who keep fast on Saturday. But one is allowed to keep obligatory fast, fast by making a vow, fast as an atonement, and for expiation on Saturday. It may be noted that prohibition of fasting on Saturday or Friday does not mean strict unlawfulness or forbiddance. This simply means disapproval.

This tradition, as Abū Dāwūd said, has been repealed by the tradition narrated by Juwairiyah, daughter of al-Ḥārith. Besides, there is some confusion in its various versions ('*Awn al-Ma'būd*, II, 296).

1741. This shows that it is permissible to fast on Saturday. Otherwise the Prophet (may peace be upon him) would not ask her about her intention of fasting on Saturday.

1742. By this he means that this tradition is weak. Two narrators, Thawr b. Yazīd and Khālīd b. Ma'dān, in the chain of the traditions narrated by 'Abd Allah b. Busr, are Ḥimṣī (i.e. belong to Ḥimṣ). They are not reliable in the opinion of some traditionists ('*Awn al-Ma'būd*, II, 297).

and said : How do you fast, Apostle of Allah ? The Apostle of Allah (may peace be upon him) became angry at what he said. When 'Umar observed this (his anger), he said : We are satisfied with Allah as Lord, with Islam as religion, and with Muḥammad as Prophet. We seek refuge in Allah from the anger of Allah, and from the anger of His Apostle. 'Umar kept on repeating these words till his anger cooled down. He then asked : Apostle of Allah, what is the position of one who observes a perpetual fast ? He replied : May he not fast or break his fast. Musaddad said in his version : He has neither fasted nor broken his fast.<sup>1743</sup> The narrator Ghailān doubted the actual wordings. He asked : What is the position of one who fasts two days and does not fast one day ? He said : Is anyone able to do that ? He asked : What is the position of one who fasts every second day (i.e. fasts one day and does not fast one day) ? He (the Prophet) said : This is the fast David observed. He asked : Apostle of Allah, what is the position of one who fasts one day and breaks two days ? He replied : I wish I were given power to observe that.<sup>1744</sup> Then the Apostle of Allah (may peace be upon him) said : The observance of three days' fast every month and of one Ramaḍān to the other (i.e. fast of Ramaḍān every year) is a perpetual fast.<sup>1745</sup> I seek from Allah that fasting on the day of 'Arafah may atone for the sins of the preceding and the coming year, and I seek from Allah that fasting on the day of 'Āshūrah may atone for the sins of the preceding year.<sup>1746</sup>

(2420) The tradition mentioned above has also been transmitted by Abū Qatādah through a different chain of narrators. This version adds : He said : Apostle of Allah, tell me about keeping fast on Monday and Thursday. He said : On it I was born, and on it the Qur'ān was first revealed to me.<sup>1747</sup>

1743. This indicates that the Prophet (may peace be upon him) disliked perpetual fasting.

1744. The Prophet (may peace be upon him) approved fasting on alternate day or one day out of three days. His wish for keeping fast one day out of three days means that he liked it for his community. He wished that the Muslims should do so.

1745. Fasting three days every month and fasting during the month of Ramaḍān amounts to uninterrupted fasting. A man who keeps fast for three days every month and fasts during Ramaḍān will be considered to fast perpetually.

1746. This tradition shows that the Prophet (may peace be upon him) was immensely kind to his community. As perpetual fasting involves hardship, he mentioned a number of alternatives which win a man the same reward as he earns by keeping perpetual fast. The Prophet (may peace be upon him) in fact, prohibited excessive worship and exaggeration in doing good voluntary actions by which a man is fatigued and fed up in the long run. This might result in his neglect of the obligatory duties. Supererogatory worship, such as voluntary prayer, fasting and alms, which adversely affect the obligatory duties are disapproved. If a man keeps perpetual fast, but leaves it on the day of both 'Īds (festival) and on three *ash-īq* days, he is allowed to do so, provided he does not neglect other obligatory duties. Otherwise it is disapproved. Abū Ṭalḥat al-Anṣārī is reported to have kept perpetual fast, and the Prophet (may peace be upon him) did not object to him ('*Awān al-Ma'bad*, II, 297).

1747. This indicates that fasting on Monday and Thursday is commendable.

(2421) 'Abd Allah b. 'Amr b. al-'Āṣ said: The Apostle of Allah (may peace be upon him) met me and said: Have I not been informed that you told: I shall stand at prayer all the night, and I shall fast during the day? He said: I think so. Yes, Apostle of Allah, I have said this. He said: Get up to pray at night and sleep; fast and break your fast; fast three days every month: that is equivalent to keeping perpetual fast. I said: Apostle of Allah, I have more power than that. He said: Then fast one day and break your fast one day. That is the most moderate fast; that is the fast of Dāwūd (David). He said: I have more power than that. The Apostle of Allah (may peace be upon him) said: There is no fast more excellent than it.<sup>1748</sup>

### Chapter 820

#### FASTING DURING SACRED MONTHS

(2422) Mujībat al-Bāhiliyyah reported on the authority of her father or uncle that he (her father or uncle) came to the Apostle of Allah (may peace be upon him). He then went away and came to him (again) after one year when his condition and appearance had changed. He said: Apostle of Allah, do you not recognise me? He asked: Who are you? He replied: I am al-Bāhili who had come to you last year. He said: What changed you, then you were good in appearance? He said: I did not eat food except at night since I departed from you. Thereupon the Apostle of Allah (may peace be upon him) said: Why did you torment yourself? Fast during Ramaḍān (the month of patience) and fast for one day every month. He said: Increase for me, for I have (more) power. He said: Fast two days. He again said: Increase for me. He said: Fast three days. He again said: Increase for me. He said: Fast during the inviolable months and abandon; fast during the inviolable months and abandon; fast during the inviolable months and abandon.<sup>1749</sup> He indicated by his three fingers, and joined them and then opened them.<sup>1750</sup>

1748. The other versions of this tradition indicate that the Prophet (may peace be upon him) said to 'Abd Allah b. 'Amr b. al-'Āṣ: You have a duty to your body, your eyes, your wife and your visitors. Hence he did not allow him to keep vigilance at night engaged in prayer and fasting all the day long. This would surely tell upon his health, and he could not perform other duties incumbent on him. The Prophet (may peace be upon him) liked moderation in all actions. Therefore a Muslim should not exceed the limits and go to extremes in worship.

1749. The sacred months are four: Rajab, Dhū al-Qa'dah, Dhū al-Hijjah and Muharram.

1750. By this he meant that al-Bāhili should fast not more than three days continuously. He may fast three days and then abandon one or two days or as he likes. He may again fast. The Prophet (may peace be upon him) did not allow him to fast even during the sacred months continuously for more than three days.



## Chapter 821

## FASTING DURING THE MONTH OF MUḤARRAM

(2423) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: The most excellent fast after Ramaḍān is Allah's month al-Muḥarram,<sup>1751</sup> and the most excellent prayer after the prescribed prayer is prayer during night.<sup>1752</sup>

## Chapter 822

## FASTING DURING RAJAB

(2424) 'Uthmān b. Ḥakīm said: I asked Sa'īd b. Jubair about fasting during Rajab. He said: Ibn 'Abbās told me that the Apostle of Allah (may peace be upon him) used to fast to such an extent that we thought that he would never break his fast; and he would go without fasting to such an extent that he would never fast.<sup>1753</sup>

## Chapter 823

## FASTING DURING SHA'BĀN

(2425) 'Ā'ishah said: The month most liked by the Apostle of Allah (may peace be upon him) for fasting was Sha'bān. He then joined it with Ramaḍān.<sup>1754</sup>

1751. This shows that if a man wants to keep voluntary fast, he may do so during the month of al-Muḥarram. But the Prophet (may peace be upon him) himself fasted frequently during Sha'bān due to certain excuse and reasons.

1752. Voluntary prayer at night is called *tahajjud* prayer. The Prophet (may peace be upon him) and the Companions observed it regularly. The voluntary prayer at night is more excellent than the supererogatory in daytime. But it is disputed whether *tahajjud* prayer is more excellent than the *sunan* prayers offered before or after obligatory prayers. The majority of scholars are of view that *sunan* prayers are more excellent than the *tahajjud* prayer, for they resemble the obligatory prayers ('*Awn al-Ma'būd*, II, 299).

1753. This means that the Prophet (may peace be upon him) sometimes fasted and sometimes abandoned fasting during Rajab. He neither prohibited nor recommended to fast during Rajab. One may fast or leave.

1754. Previously a tradition (No. 2423) has been mentioned that after the fasts during Ramaḍān, the most excellent fasts are those kept in Muḥarram. But this tradition and similar other traditions indicate that after Ramaḍān the most excellent fasts are those observed in Sha'bān. The Prophet (may peace be upon him) himself would fast during the whole month of Sha'bān, or at least in the greater part of this month. Thus there is a contradiction between these two traditions. To this it has been replied that out of voluntary fasts the fasts during Muḥarram stand prominent, but not when compared with the fasts during Sha'bān. This is like the excellence of *tahajjud* prayer, which stands prominent when compared with the voluntary prayers in general, but not when compared with *sunan* prayers. *Sunan* prayers are more excellent than *tahajjud* prayer. Similarly, fasting during Sha'bān is more excellent than fasting during Muḥarram, ('*Awn al-Ma'būd*, II, 299).

## Chapter 824

## FASTING DURING SHAWWĀL

(2426) 'Ubaid Allāh b. Muslim al-Qurashī reported on the authority of his father : I asked or someone asked the Prophet (may peace be upon him) about perpetual fasting. He replied : You have a duty to your family. Fast during Ramaḍān and the following month,<sup>1755</sup> and every Wednesday and Thursday. You will then have observed a perpetual fast.<sup>1756</sup>

Abū Dāwūd said : Zaid al-'Uklī supported him, but Abū Nu'aim opposed him. In his version he said : Muslim b. 'Ubaid Allāh.

## Chapter 825

## FASTING FOR SIX DAYS DURING SHAWWĀL

(2427) Abū Ayyūb reported the Prophet (may peace be upon him) as saying : If anyone fasts during Ramaḍān, then follows it with six days in Shawwāl, it will be like a perpetual fast.<sup>1757</sup>

## Chapter 826

HOW DID THE PROPHET (MAY PEACE BE UPON HIM)  
KEEP FASTS

(2428) 'Ā'ishah, wife of the Prophet (may peace be upon him), said : The Apostle of Allāh (may peace be upon him) used to fast to such an extent that we thought that

1755. The following month may refer to the month of Shawwāl or to the month of Sha'bān. Fasting in both these months is commendable.

1756. The Prophet (may peace be upon him) exhorted Muslims to fast for a few days in every month and not continuously. Perpetual fasting tells upon one's health which might result in the neglect of one's obligatory duties.

1757. To keep fast for six days during the month of Shawwāl is commendable, as this tradition indicates. This opinion is held by al-Shāfi'ī, Aḥmād and Dāwūd. Mālik is of view that fasting for six days during Shawwāl is disapproved. He contends that he did not see any one of the scholars who kept them. It appears that this tradition was not known to Mālik, otherwise he would not have rejected. Al-Nawawī said in his commentary on *Ṣaḥīḥ* of Muslim : It is preferable to keep these six fasts during Shawwāl consecutively immediately after the last of Shawwāl. If a man fasts severally or postpones them till the end of the month, he will get the reward. The reward of these six fasts is like that of perpetual fast, for a man is rewarded ten times for one virtuous deed. Thus he gets reward for fasting during Ramaḍān ten times, that is, for ten months or three hundred days. In addition, for fasting six days during Shawwāl he gets reward for two months or sixty days. He gets reward for fasting all the year round, i.e. three hundred sixty days (*ʿAwn al-Ma'būd*, II, 300).

he would never break his fast, and he would go without fasting to such an extent that we thought he would never fast. I never saw the Apostle of Allah (may peace be upon him) fast a complete month except in Ramaḍān, and I never saw him fast more in any month than in Sha'bān.<sup>1758</sup>

(2429) The tradition mentioned above has also been transmitted by Abū Hurairah through a different chain of narrators to the same effect. This version adds: He would fast all but a little of Sha'bān, rather he used to fast the whole of Sha'bān.<sup>1759</sup>

### Chapter 827

#### FASTING ON MONDAY AND THURSDAY

(2430) The client of Usāmah b. Zaid said that he went along with Usāmah to Wādī al-Qurā'<sup>1760</sup> in pursuit of his camels. He would fast on Monday and Thursday. His client said to him: Why do you fast on Monday and Thursday, while you are an old man? He said: The Prophet of Allah (may peace be upon him) used to fast on Monday and Thursday. When he was asked about it, he said: The works of the servants (of Allah) are presented (to Allah) on Monday and Thursday.<sup>1761</sup>

Abū Dāwūd said: Hishām al-Dastuwā'i thus narrated from Yaḥyā from 'Umar b. Abī al-Ḥakam.

### Chapter 828

#### FASTING DURING THE FIRST TEN DAYS OF DHŪ AL-ḤIJJAH

(2431) Hunaidah b. Khālīd narrated from his wife on the authority of one of the wives of the Prophet (may peace be upon him) who said: The Apostle of Allah (may peace be upon him) used to fast the first nine days of Dhū al-Ḥijjah, 'Ashūrah<sup>1762</sup> and three days of every month, that is, the first Monday (of the month)

1758. The Prophet (may peace be upon him) sometimes would fast continuously and sometimes abandon fasting for many days. This tradition also shows that it is commendable to fast a few days every month, especially in Sha'bān.

1759. As he would go without fasting for a few days in Sha'bān, it seemed as if he fasted for the whole of that month.

1760. The name of a valley between Medina and Syria.

1761. It is commendable to fast on Monday and Thursday as the deeds of the people are presented to Allah on these days. It is better if a man is fasting on days when his deeds are presented to Allah.

1762. The tenth of Dhū al-Ḥijjah is called 'Āshūrah. It is commendable to fast for two days, on 9th and 10th of Dhū al-Ḥijjah or 10th and 11th of Dhū al-Ḥijjah.

and Thursday.<sup>1763</sup>

(2432) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: There is no virtue more to the liking of Allah in any day than in these days, that is, the first ten days of Dhū al-Ḥijjah. They (the Companions) asked: Apostle of Allah, not even the struggle in the path of Allah (*jihad*)? He said: (Yes), not even the struggle in the path of Allah, except a man who goes out (in the path of Allah) with his life and property, and does not return with any of them.<sup>1764</sup>

### Chapter 829

#### NOT TO KEEP FAST DURING THE FIRST TEN DAYS OF DHŪ AL-ḤIJJAH

(2433) 'Ā'ishah said: I never saw the Apostle of Allah (may peace be upon him) fasting during the first ten days of Dhū al-Ḥijjah.<sup>1765</sup>

### Chapter 830

#### FASTING ON THE DAY OF 'ARAFAH (I.E. 9TH OF DHŪ AL-ḤIJJAH) AT 'ARAFAH

(2434) 'Ikrimah said: We were with Abū Hurairah in his house when he narrated to us: The Apostle of Allah (may peace be upon him) prohibited fasting on the day of 'Arafah at 'Arafah.<sup>1766</sup>

1763. The version of this tradition as narrated by al-Nasā'ī and Ahmad b. Ḥanbal says: "the first Monday of the month and two Thursdays." This completes the number three.

1764. This means that he dies in the path of Allah. Only martyrdom is more excellent than virtues done during the first ten days of Dhū al-Ḥijjah. The Prophet (may peace be upon him) has thus exhorted the Muslims to do abundant virtues in these days.

1765. This tradition contradicts the traditions which indicate that fasting during the first ten days of Dhū al-Ḥijjah, particularly on the 9th of Dhū al-Ḥijjah, carries much reward. The Prophet (may peace be upon him) himself used to fast during the first ten days of Dhū al-Ḥijjah. This tradition of 'Ā'ishah has been interpreted in various ways. First, the Prophet (may peace be upon him) might have actually fasted, but 'Ā'ishah did not know it. The ignorance of 'Ā'ishah about his fasting during these days does not indicate that he never fasted. Secondly, the Prophet (may peace be upon him) might not actually have fasted himself due to some valid reason such as travelling or disease. Thirdly, he pointed out the excellence and reward for keeping fast during these days, but he might not have got an opportunity owing to some reason. The excellence of fasting during the first ten days of Dhū al-Ḥijjah, and specially on the 19th, has been unanimously accepted (*'Awn al-Ma'būd*, II, 301).

1766. The day of 'Arafah means 9th of Dhū al-Ḥijjah. Al-Khaṭṭābī said: This prohibition from the Prophet (may peace be upon him) is optional and not binding. He prohibited a pilgrim to fast on the day of 'Arafah at 'Arafah for fear of his becoming weak which might prevent him from

(2435) Umm al-Faḍl, daughter of al-Ḥārith, said: On the day of 'Arafah some people near her argued whether the Apostle of Allah (may peace be upon him) was fasting, some saying that he was, and others saying that he was not. I, therefore, sent him a cup of milk while he was observing the halt at 'Arafah on his camel, and he drank it.<sup>1767</sup>

### Chapter 831

#### FASTING ON THE DAY OF 'ĀSHURAH<sup>1768</sup>

(2436) 'Ā'ishah said: The Quraish used to fast on the day of 'Āshurah in pre-Islamic days. The Apostle of Allah (may peace be upon him) would fast on it in pre-Islamic period. When the Apostle of Allah (may peace be upon him) came to Medina, he fasted on it and commanded to fast on it.<sup>1769</sup> When the fast of Ramaḍān was prescribed, that became obligatory, and (fasting on) 'Āshurah was abandoned. He who wishes may fast on it and he who wishes may leave it.

(2437) Ibn 'Umar said: 'Āshurah was a day on which we used to fast in pre-Islamic days. When (fasting of) Ramaḍān was prescribed, the Apostle of Allah (may peace be upon him) said: This is one of the days of Allah; he who wishes may fast on it.

worship and prayer there. As for those who are strong enough to keep fast and they do not become weak by fasting are allowed to fast at 'Arafah on this day. The Prophet (may peace be upon him) is reported to have said: Fasting on the day of 'Arafah remits the sins of two years, one year before and one year after. 'Uthmān b. Abī al-'Āṣ and Ibn al-Zubair used to fast on this day. According to Aḥmad b. Ḥanbal, it depends on the strength of a pilgrim to fast on this day. Ishāq takes this fast as commendable for the pilgrims. Mālik, al-Thawrī and al-Shāfi'ī hold that it is better for the pilgrims not to keep fast on this day. Ibn 'Umar is reported to have said: The Prophet (may peace be upon him) never fasted on this day, nor did Abū Bakr, 'Umar and 'Uthmān fast, nor do I fast on this day. Al-Shawkānī said: It is commendable to fast on the day of 'Arafah for those who are not present at 'Arafāt and are not performing Ḥajj; but it is disapproved for pilgrims who are present at 'Arafāt. The reason is that it causes weakness and a pilgrim cannot pray and worship Allah as desired ('*Awn al-Ma'būd*, II, 301).

1767. This shows that the Prophet (may peace be upon him) did not keep fast on the day of 'Arafah. It is, therefore, better to go without fasting on this day at 'Arafah while performing Ḥajj.

1768. According to Ibn 'Abbās, the 9th of Muḥarram is called 'Āshurāh. But the majority of scholars are unanimously agreed that it is the 10th of Muḥarram. It is commendable to fast on the 9th and 10th of Muḥarram to avoid resemblance with the practice of the Jews. Earlier, the Prophet (may peace be upon him) used to fast only on the 10th of Muḥarram. When he was informed that the Jews used to fast on this day he said that he would fast on the 9th of Muḥarram next year.

1769. It may be noted that fasting on the day of 'Āshurāh today is recommended and not binding. Its nature in the early days of Islam is disputed. According to Abū Ḥanīfah, it was obligatory. The followers of al-Shāfi'ī hold two views, namely, that it was commendable from the very beginning, and that it was obligatory.



(2438) Ibn 'Abbās said : When the Prophet (may peace be upon him) came to Medina, he found the Jews observing fast on the day of 'Ashūrah ; so they were asked about it (by the the Prophet). They said : This is a day on which Allah gave Moses domination over Pharaoh. We fast on it out of reverence to him. The Apostle of Allah (may peace be upon him) said : We have a closer connection with Moses than you have. He then gave orders that it should be observed.

### Chapter 832

#### THE VIEW THAT THE 9TH OF MUḤARRAM IS 'ASHŪRAH

(2439) Ibn 'Abbās said : When the Prophet (may peace be upon him) fasted on the day of 'Ashūrah and commanded us to fast on it, they (i.e. the Companions) said : Apostle of Allah, this is a day which is considered great by the Jews and Christians ? The Apostle of Allah (may peace be upon him) said : When the next year comes, we shall fast on the 9th of Muḥarram.<sup>1770</sup> But the next year the Apostle of Allah (may peace be upon him) breathed his last.

(2440) Al-Ḥakam b. al-A'raj said : I came to Ibn 'Abbās who was leaning against his sheet of cloth in the Sacred Mosque (*al-Masjid al-Ḥarām*). I asked him about fasting on the day of 'Ashūrah. He said : When you sight the moon of al-Muḥarram, count (the days). When the 9th of Muḥarram comes,<sup>1771</sup> fast from the morning. I said : Would Muḥammad (may peace be upon him) observe this fast ? He replied : Thus Muḥammad (may peace be upon him) used to fast.

### Chapter 833

#### EXCELLENCE OF FASTING ON THE DAY OF 'ASHŪRAH

(2441) 'Abd al-Raḥmān b. Maslamah reported on the authority of his uncle that the people of the tribe Aslam came to the Prophet (may peace be upon him). He said

1770. By this he might mean that he would fast on the 9th of Muḥarram only, and not on the 10th ; or this might mean that he would fast on both days. A tradition on the authority of Ibn 'Abbās says : Fast on the 9th and 10th of Muḥarram, and oppose the Jews. This opinion is held by al-Shāfi'ī. Some scholars hold that what is recommended is to fast on the 9th of Muḥarram alone. Ibn al-Humām maintains that it is commendable to fast on the 9th and 10th of Muḥarram, or on the 10th and 11th of Muḥarram. But it is disapproved to fast on the 10th of Muḥarram alone because of resemblance with the fast of the Jews. Aḥmad b. Ḥanbal has also narrated a tradition which says : Fast on the day of 'Ashūrah and oppose the Jews ; and fast a day before or after it (*'Aun al-Ma'būd*, II, 303).

1771. This is against a number of sound traditions which indicate that 'Ashūrah is the 10th of Muḥarram. Hence the majority of the Companions and the Successors hold that 'Ashūrah falls on the 10th of the Muḥarram and not on the 9th.

(to them): Did you fast on this day? They replied: No. He said: Complete the rest of your day, and make atonement for it.<sup>1772</sup>

Abū Dāwūd said: By this he meant the day of *‘Āshurah*.

### Chapter 834

#### FASTING EVERY SECOND DAY

(2442) ‘Abd Allah b. ‘Amr (b. al-‘Āṣ) said: The Apostle of Allah (may peace be upon him) said to me: The fast most liked by Allah is the one observed by Dāwūd (David), and the prayer dearer to Allah is the one offered by Dāwūd (David): he would sleep half the night, and stand (in prayer) one-third of it, and sleep one-sixth of it. He would go without fasting one day, and fast the other day.<sup>1773</sup>

### Chapter 835

#### FASTING THREE DAYS EVERY MONTH

(2443) Ibn Maḥḥān<sup>1774</sup> al-Qaisī reported on the authority of his father: The Apostle of Allah (may peace be upon him) used to command us to fast the days of the white (nights): thirteenth, fourteenth and fifteenth of the month. He said: This is like keeping perpetual fast.<sup>1775</sup>

(2444) ‘Abd Allah (b. Mas‘ūd) said: The Apostle of Allah (may peace be upon him) used to fast the first three days every month.<sup>1776</sup>

1772. This might have happened when the fast of *‘Āshurah* was obligatory. It may be noted that beginning of a fast from the middle of the day is not valid. The Prophet (may peace be upon him) might have suggested to withhold from eating as a recommendation, for they were required to atone for it.

1773. Fasting every second day and offering voluntary prayer (i.e. *tahajjud*) in the last part of the night are acts most liked by Allah. It is not appreciated to keep perpetual fast and to offer prayer all the night taking no rest. One should observe moderation in worship.

1774. There is a confusion in the name of Ibn Maḥḥān. Some scholars hold that he is Qatādah b. Maḥḥān, others are of view that he is Minhāl b. Maḥḥān al-Qaisī. Hence Abū Dāwūd dropped his name. The author of *‘Awn al-Ma‘būd* thinks that what is correct is Qatādah b. Maḥḥān (II, 304).

1775. The Arabic word is *biḍ* meaning white nights. There are the nights when there is most moonlight. These days are the thirteenth, fourteenth and fifteenth of the month. To fast these days is commendable.

1776. The Prophet (may peace be upon him) might have fasted three days sometimes in the beginning of the month and sometimes in the middle.

### Chapter 836

#### THE VIEW THAT FASTING ON MONDAY AND THURSDAY IS COMMENDABLE

(2445) Ḥafṣah said: The Apostle of Allah (may peace be upon him) used to fast three days every month: Monday, Thursday and Monday in the next week.<sup>1777</sup>

(2446) Hunaidah al-Khuzi'i reported on the authority of her mother who said: I entered upon Umm Salamah and asked her about fasting. She said: The Apostle of Allah (may peace be upon him) used to command me to fast three days every month beginning with Monday or Thursday.<sup>1778</sup>

### Chapter 837

#### THE VIEW THAT ONE MAY KEEP FAST ANY DAY OF THE MONTH

(2447) Mu'adhah (al-'Adawlyyah) said: I asked 'Ā'ishah: Would the Apostle of Allah (may peace be upon him) fast three days every month? She replied: Yes. I asked: Which days in the month he used to fast? She replied: He did not care which days of the month he fasted.<sup>1779</sup>

### Chapter 838

#### INTENTION FOR FASTING

(2448) Ḥafṣah, wife of the Prophet (may peace be upon him), reported the Apostle of Allah (may peace be upon him) as saying: He who does not determine to fast before dawn does not fast.<sup>1780</sup>

Abū Dāwūd said: This tradition has also been narrated by al-Laith and Ishāq

1777. There is no contradiction between these traditions. He would fast on various days.

1778. This means that she should begin with Monday if it fell just after beginning of the month or with Thursday if it fell in the beginning.

1779. This shows that the Prophet (may peace be upon him) did not fix any day of the month for fasting. He would fast any day of the month according to his convenience.

1780. This shows that intention for each fast is necessary. The fast will not be valid without intention. But it is necessary to take intention for each fast separately; the intention for fasting the whole month is not valid. According to 'Umar b. al-Khaṭṭāb, 'Abd Allah b. 'Umar, al-Ḥasan al-Baṣrī, al-Shāfi'i and Ahmad b. Ḥanbal, taking intention for the fasts of Ramaḍān is necessary before dawn. Abū Ḥanīfah maintains that if a man takes intention for obligatory fasts before the sun passes the meridian, his fast is valid. But for the fasts on account of vowing, expiation, and atonement, intention before dawn is not necessary. Ishāq b. Rāhwaiḥ holds that taking intention for fasting the whole month of Ramaḍān at the first night is sufficient ('*Awn al-Ma'būd*, II, 304-05).

b. Ḥāzim from 'Abd Allah b. Abī Bakr in a like manner (i.e. as a saying of the Prophet), and Ma'mar al-Zubaidī, Ibn 'Uyainah and Yūnus al-A'īl narrated on the authority of al-Zuhri as a statement of Ḥafṣah (and not as a saying of the Prophet).

### Chapter 839

#### INTENTION FOR FASTING IS NOT NECESSARY

(2449) 'Ā'ishah said: When the Prophet (may peace be upon him) entered upon me, he would ask: Do you have food? When we said: No, he would say: I am fasting. Waki' added in his version: Another day when he entered upon us, we said: Apostle of Allah, some pudding (*ḥais*)<sup>1781</sup> has been presented to us and we have retained it for you. He said: Bring it to me. Ṭalhah said: He fasted in the morning, but broke his fast (that day).<sup>1782</sup>

(2450) Umm Hānī said: On the days of the conquest of Mecca, when Mecca was captured, Fāṭimah came and sat on the left side of the Apostle of Allah (may peace be upon him), and Umm Hānī was on his right side. A slave-girl brought a vessel which contained some drink; she gave it to him and he drank of it. He then gave it to Umm Hānī who drank of it. She said: Apostle of Allah, I have broken my fast; I was fasting. He said to her: Were you making atonement for something? She replied: No. He said: Then it does not harm you if it was voluntary (fast).<sup>1783</sup>

### Chapter 840

#### THE VIEW THAT ATONEMENT FOR BREAKING A VOLUNTARY FAST IS NECESSARY

(2451) 'Ā'ishah said: Some food was presented to me and Ḥafṣah. We were

1781. A kind of pudding prepared from dates, cheese, oil and flour.

1782. This shows that for voluntary fasts intention before dawn is not necessary. Besides, one can break it before sunset. In this tradition there is no mention of making atonement for breaking a voluntary fast. This view is held by Ibn Mas'ūd, Ḥudhaifah, Abū al-Dardā', Abū Ayyūb al-Anṣārī, al-Shāfi'ī and Aḥmad b. Ḥanbal. Ibn 'Umar used to take intention for voluntary fasts before dawn. Jābir b. Zaid holds that voluntary fast is not valid if a man does not take intention at night. Mālik b. Anas maintains that one must take intention for voluntary fasts in night (*'Awn al-Ma'būd*, II, 305).

1783. This tradition indicates that if a man breaks his voluntary fast, he is not required to make an atonement. This opinion is held by Ibn 'Abbās, al-Shāfi'ī, Aḥmad b. Ḥanbal and Ishāq. Abū Ḥanīfah maintains that atonement is necessary if a man breaks his voluntary fast. Mālik holds that if he breaks for some valid reason such as illness, no atonement is binding on him. In case he breaks the fast without any excuse or reason he should make atonement (*'Awn al-Ma'būd*, II, 305).

fasting, but we broke our fast. Then the Apostle of Allah (may peace be upon him) entered upon us. We said to him: A gift was presented to us ; we coveted it and we broke our fast. The Apostle of Allah (may peace be upon him) said: There is no harm to you ; keep a fast another day in lieu of it.<sup>1784</sup>

### Chapter 841

#### ON A WOMAN WHO FASTS WITHOUT THE PERMISSION OF HER HUSBAND

(2452) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: It is not allowable for a woman to keep (voluntary) fast when her husband is present without his permission, and she may not allow anyone to enter his house without his permission.<sup>1785</sup>

(2453) Abū Sa'īd said: A woman came to the Prophet (may peace be upon him) while we were with him. She said: Apostle of Allah, my husband Ṣafwān b. al-Mu'aṭṭal beats me when I pray, and makes me break my fast when I keep fast, and he does not offer dawn prayer until the sun rises. He asked Ṣafwān who was present there about what she said. He replied: Apostle of Allah, as for her statement "he beats me when I pray," she recites two *sūrah*s<sup>1786</sup> (during prayer) and I have prohibited her (to do so). He (the Prophet) said: If one *sūrah* is recited (during prayer), that is sufficient for the people. (Ṣafwān continued:) As regards her saying "he makes me break my fast," she goes on fasting; I am a young man, I cannot withhold myself.<sup>1787</sup> The Apostle of Allah (may peace be upon him) said on that day: A woman should not fast except with the permission of her husband. (Ṣafwān said:) As to her statement that I do not pray until the sun rises, we are a people belonging to a class, and

1784 This tradition is weak, as the narrator Zayd in the chain of narrators is obscure.

Al-Khaṭṭābī observes that suppose it is established as sound, then it means that the Prophet (may peace be upon him) suggested them to atone for it as a recommendation and not as an order binding on them ('*Awān al-Ma'ād*, II, 306).

1785. It may be noted that there is no need of permission of her husband to keep the fast of Ramaḍān, for it is obligatory. She must seek his permission in case of supererogatory fasts. As the fast weakens a woman, that may be an impediment to having intercourse with her.

This tradition also indicates that a woman should not allow anyone, male or female, to enter the house without her husband's permission:

1786. The woman used to recite two *sūrah*s in one *raḥ'ah* ; thus she would lengthen the prayer. As Ṣafwān asked her to shorten the prayer by reciting one *sūrah* she did not obey him. Hence he beat her. The Prophet (may peace be upon him) said that reciting one *sūrah* during prayer was sufficient.

1787. This shows that a woman should not keep voluntary fasts without the permission of her husband. This might sometimes prevent the husband from having intercourse with her.



that (our profession of supplying water) is already known about us.<sup>1788</sup> We do not awake until the sun rises. He said : When you awake, offer your prayer.<sup>1789</sup>

Abū Dāwūd said : This tradition has also been narrated by Ḥammād, that is, Ibn Salamah, from Ḥumaid or Thābit from Abū al-Mutawakkil.

### Chapter 842

#### INVITING A MAN WHO IS FASTING TO A MARRIAGE BANQUET

(2454) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : When one of you receives an invitation (for a meal), he should accept it. If he is not fasting, he should eat,<sup>1790</sup> and if he is fasting, he should pray.<sup>1791</sup> Hishām said : The word *ṣalāt* means to pray (for him to Allah).

Abū Dāwūd said : This tradition has also been narrated by Ḥafṣ b. Ghiyāth from Hishām.

(2455) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : When one of you is invited (to a meal), and he is fasting, he should say that he is fasting.

1788. They were water-carriers. They supplied water to the people till late hours at night. Hence they went to bed towards the close of night. They could not get up early in the morning before sunrise. This custom of theirs was already known to the people. This was the reason that Ṣafwān offered the dawn prayer after sunrise.

1789. The Prophet (may peace be upon him) allowed him to pray after sunrise when he awoke, as no prayer is binding on a man who is sleeping. He permitted him to do that in special circumstances and due to an excuse. But this cannot be generalised. If a man is sleeping and there is also another man who awoke at the time of prayer, he should awaken the man who is sleeping. In case there is none to awake him, he is allowed to pray when he awakes.

1790. If a man is invited to a meal while he is not keeping a fast, he should accept it. Acceptance of an invitation to a meal is necessary provided he is not involved in sin. If he believes that by his participation in the feast the people will abstain from sin, i.e., music and dance or similar other sinful acts, he must accept the invitation. But if there is an apprehension that he will himself be involved in sin, he should refuse.

1791. In case a man is keeping voluntary fast, and he is invited to a feast, he may apologise and pray for him. In case this disheartens the man who invites him, he may break the fast. But it is better to tell him plainly that he is fasting. Here prayer means both praying two *raḥ'as* in his house as the Prophet (may peace be upon him) once did himself or praying for blessing and mercy to Allah.

## Chapter 843

RETIREMENT TO THE MOSQUE (*i'tikāf*)<sup>1792</sup>

(2456) 'Ā'ishah said: The Prophet (may peace be upon him) used to observe retirement (*i'tikāf*) to the mosque during the last ten days of Ramaḍān till Allah took him, and then his wives observed retirement to the mosque after his death.<sup>1793</sup>

(2457) Ubayy' b. Ka'b said: The Prophet (may peace be upon him) used to observe *i'tikāf* during the last ten days of Ramaḍān. One year he did not observe *i'tikāf*. When the next year came, he observed *i'tikāf* for twenty nights (i.e. days).<sup>1794</sup>

(2458) 'Ā'ishah said: When the Apostle of Allah (may peace be upon him) intended to observe *i'tikāf*, he prayed the dawn prayer and then entered his place of seclusion.<sup>1795</sup> Once he intended to observe *i'tikāf* during the last ten days of Ramaḍān. She said: He ordered to pitch a tent for him, and it was pitched. When I saw it, I also ordered to pitch a tent for me, and it was pitched. She said: The other wives of the Prophet (may peace be upon him) also ordered to pitch tents for them and they were pitched. When he offered the dawn prayer, he saw the tents, and said: What is this? Did you intend to do an act of virtue? She said: He then ordered to demolish his tent, and it was demolished. Then his wives also ordered to demolish their tents and they were demolished. He then postponed *i'tikāf* till the first ten days,

1792. *i'tikāf* comes from '*akafa*' meaning "to retire, to devote, and to be bent on something". By keeping fasts during Ramaḍān a Muslim purifies himself from evils. For his spiritual advancement he requires some moments when he is engaged exclusively to the remembrance of Allah and His worship. It is not possible if a man remains busy in his routine. For this purpose it is necessary for him to keep himself away from his home, family and daily work and to retire completely to the mosque. Here he can concentrate on the remembrance of Allah and devotion to Him. This aims at enhancing one's devotion to Allah and worshipping Him as much as possible. A man who observes *i'tikāf* spends most of his time in praying, supplication and reciting the Qur'ān. This results in his internal and external purification towards the close of Ramaḍān.

1793. To observe *i'tikāf* during the last ten days of Ramaḍān is recommended (*sunna*). It is not obligatory. According to al-Shāfi'i, fasting is not necessary for *i'tikāf*. Mālik, Abū Ḥanīfah and most of scholars maintain that fasting is necessary for *i'tikāf*. The Prophet (may peace be upon him) and the Companions and his wives after him used to observe it regularly. As regards women, they should observe *i'tikāf* in their houses according to Abū Ḥanīfah.

1794. The Prophet (may peace be upon him) could not observe *i'tikāf* due to his preoccupation. But he atoned for it although it was not obligatory. This shows the significance of *i'tikāf* during the last ten days of Ramaḍān.

1795. This shows that a man who intends to observe *i'tikāf* should go to the mosque in the beginning of the day. This view is held by al-Auzā'i, al-Thawrī and al-Laith (according to one statement). Mālik, Abū Ḥanīfah, al-Shāfi'i and Aḥmad hold that he should enter the mosque just before the sunset in case he observes *i'tikāf* for the whole month of Ramaḍān or for ten days.

that is of Shawwāl.<sup>1796</sup>

Abū Dāwūd said : This tradition has been transmitted by Ibn Ishāq and al-Auzā'ī from Yaḥyā b. Sa'īd in a similar manner : and Mālik narrated it from Yaḥyā b. Sa'īd, saying : He observed *i'tikāf* during twenty days of Shawwāl.

### Chapter 844

#### WHERE *I'TIKĀF* SHOULD BE OBSERVED

(2459) Ibn 'Umar said : The Prophet (may peace be upon him) used to observe *i'tikāf* during the last ten days of Ramaḍān. Nāfi' said : 'Abd Allah (b. 'Umar) showed me the place in the mosque where the Apostle of Allah (may peace be upon him) used to observe *i'tikāf*.<sup>1797</sup>

(2460) Abū Hurairah said : The Prophet (may peace be upon him) used to observe *i'tikāf* during ten days of Ramaḍān every year. But when the year in which he died came, he observed *i'tikāf* for twenty days.<sup>1798</sup>

### Chapter 845

#### A MAN WHO OBSERVES *I'TIKĀF* IS ALLOWED TO ENTER HIS HOUSE TO FULFIL HIS HUMAN NEEDS

(2461) 'Ā'ishah said : When the Apostle of Allah (may peace be upon him) observed *i'tikāf*, he would put his head near me, and I would comb it; and he

1796. As the Prophet (may peace be upon him) did not observe *i'tikāf* during Ramaḍān he atoned for it during Shawwāl.

1797. This tradition indicates that *i'tikāf* is valid only in the mosque, as the Prophet (may peace be upon him) used to observe it only in the mosque. Mālik, al-Shāfi'ī, Aḥmad b. Ḥanbal, Dāwūd and most of scholars hold that both men and women should observe *i'tikāf* in the mosque. Abū Ḥanīfah maintains that women should observe *i'tikāf* in their houses at the place where they usually offer their prayer. Their *i'tikāf* in the mosque is not valid. In his opinion only men should observe *i'tikāf* in the mosque. Some Mālikī and Shāfi'ī scholars hold that it is permissible both for men and for women to observe *i'tikāf* in their houses. There are also some reservations for the mosque. Al-Shāfi'ī, Mālik and majority of scholars maintain that *i'tikāf* is valid in every mosque. According to Aḥmad, it is valid in the mosque where prayers are offered in congregation. Abū Ḥanīfah holds that *i'tikāf* should be observed in the mosque where all prayers are offered in congregation. Al-Zuhri and others hold that it should be observed in a great mosque where Friday prayer is offered. Ḥudhaifah b. al-Yamān, a Companion of the Prophet (may peace be upon him), is reported to have maintained that *i'tikāf* is valid only in three mosques, the sacred mosque, the mosque of the Prophet (may peace be upon him) and the mosque at Jerusalem ('*Awn al-Mu'bad*, II, 308-9).

1798. He might have known about his death beforehand. Further, this year he recited the Qur'ān twice during Ramaḍān, although he used to recite only once every year.

entered the house only to fulfil human needs (i.e. to urinate or to relieve himself).<sup>1799</sup>

(2462) A similar tradition has been transmitted by 'Ā'ishah from the Prophet (may peace be upon him) through a different chain of narrators.

Abū Dāwūd said: And Yūnus also narrated in a similar way from al-Zuhrī, and no one supported Mālik in his narration from 'Urwah from 'Umrah; and Ma'mar, Zivād b. Sa'd and others have also narrated it from al-Zuhrī from 'Urwah on the authority of 'Ā'ishah.

(2463) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) used to observe *i'tikāf* in the mosque and put his head near me through the opening of the apartment, and I would wash his head.<sup>1800</sup> Musaddad said: "And I would comb it while I was menstruating."

(2464) Safīyah said: When the Apostle of Allah (may peace upon him) was observing *i'tikāf* (in the mosque), I would come to him to visit him. I had a talk with him and then stood up; I then returned and he (the Prophet) also stood up to accompany me to me (to my house). Her dwelling place was in the house of Usāmah b. Zaid. Two men from the *Anṣār* (helpers) passed (by him at the moment). When they saw the Prophet (may peace be upon him), they walked quickly. The Prophet (may peace be upon him) said: Be at ease; she is Ṣafīyyah daughter of Ḥuyayy. They said: Be glory to Allah, Apostle of Allah! He said: Satan runs in man like blood; I feared he might inspire something in your mind,<sup>1801</sup> or he said: evil (the narrator

1799. This shows that a man who is observing *i'tikāf* is allowed to enter his house only for urinating or relieving himself. He is not allowed to enter his house for taking food or drinking water. But this question is disputed among scholars. Abū Thawr holds that a man who is observing *i'tikāf* is allowed to go out of the mosque for performing ablutions. Ishāq b. Rāhwaiḥ maintains that he is allowed to go out of the mosque only for urinating or relieving himself. Further, in the case of voluntary *i'tikāf* he may make reservations in the beginning of *i'tikāf* by taking the same intention. As for obligatory *i'tikāf*, he is not allowed to visit a patient or attend the funeral prayer. According to al-Auzā'i, there is no condition for *i'tikāf*. Abū Ḥanīfah holds that a *mu'takif* is allowed to go out of the mosque only for offering Friday prayer, urinating and relieving himself. He is not allowed to visit a patient or attend a funeral prayer. Mālik and al-Shāfi'i hold that he should not go out of the mosque for visiting a patient or attending a funeral prayer. This view is also held by 'Aṭā' and Mujaḥid. A group maintains that he is allowed to visit a patient to attend the Friday and funeral prayer. This is held by 'Alī Sa'id b. Jubair, al-Ḥasan al-Baṣrī and al-Nakha'i ('*Awn al-Ma'būd*, II, 309).

1800. This shows that it is permissible to comb and decorate oneself while observing *i'tikāf* in the mosque. One can also take out a part of the body from the mosque for some necessity. He may get his head shaved, his nails clipped and his body washed during *i'tikāf*. This also shows that a woman while menstruating may attend to her husband who is observing *i'tikāf* in the mosque.

1801. The Prophet (may peace be upon him) pointed out to them that the woman who was accompanying him was his wife. This he did out of kindness to the *Anṣār* so that they might avoid bad faith about him.

doubted).

(2465) The tradition mentioned above has also been transmitted by al-Zuhri through a different chain of narrators. In this version she said: When he was at the gate of the mosque which was near the gate of Umm Salamah, two men passed them. The narrator then transmitted the tradition to the same effect.

### Chapter 846

#### ON VISITING A PATIENT BY A PERSON WHO IS OBSERVING I'TIKĀF

(2466) According to the version of al-Nuʿaimi, 'Ā'ishah said: The Prophet (may peace be upon him) used to pass by a patient while he was observing i'tikāf (in the mosque), but he passed as usual, and did not stay asking about him.

According to the version of Ibn 'Isā she said: The Prophet (may peace be upon him) would visit a patient while he was observing i'tikāf.<sup>1802</sup>

(2467) 'Ā'ishah said: The *sunnah* for one who is observing i'tikāf (in a mosque) is not to visit a patient, or to attend a funeral, or touch or embrace one's wife,<sup>1803</sup> or go out for anything but necessary purposes. There is no i'tikāf without fasting,<sup>1804</sup> and there is no i'tikāf except in a congregational mosque.<sup>1805</sup>

Abū Dāwūd said: The narrators other than 'Abd al-Raḥmān b. Ishāq did not narrate the words: "She said: The *sunnah*. . ."

Abū Dāwūd said: They took it as a statement of 'Ā'ishah herself.

(2468) Ibn 'Umar said: 'Umar (may Allah be pleased with him) took a vow in the pre-Islamic days to spend a night or a day in devotion near the Ka'bah (in the

1802. This shows that a man who is observing i'tikāf in the mosque should not go outside the mosque to visit a patient to ask about his health. But it is permissible to visit him or ask him about his health on the way while going home for his need.

1803. The Arabic word *basharah* means association. But here it refers to intercourse. This means that a man who is observing i'tikāf is not allowed to have intercourse with his wife when he comes to his home for some need. According to 'Atā' and al-Shāfi'i, if a man while observing i'tikāf touches or embraces his wife, his i'tikāf will not become void. Mālik and Abū Ḥanīfah maintain that his i'tikāf will become void.

1804. This shows that i'tikāf is not valid without fasting. This view is held by Ibn 'Abbās, Ibn 'Umar, Mālik, al-Auzā'i, al-Thawri and Abū Ḥanīfah. But Ibn Mas'ūd, al-Ḥasan al-Baṣrī, al-Shāfi'i, Ahmad and Ishāq hold the view that fasting is not necessary for the validity of i'tikāf. According to them, i'tikāf is valid for a woman in the mosque ('*Awn al-Ma'būd*, II, 310).

1805. This probably means that if a man does not observe i'tikāf in a grand congregational mosque, he will not get the perfect reward. I'tikāf in a mosque where Friday prayer is not offered is disapproved if a man takes a vow to observe i'tikāf for more than seven days. In this case he may lax Friday prayer. If he does not take a vow to observe i'tikāf in such a mosque, there is no harm in observing i'tikāf in any mosque, whether congregational or non-congregational ('*Awn al-Ma'būd*, II, 311).



Ch. 847 ] A Woman Who has a Flow of Blood from a Vein may observe *I'tikāf* [ 683

sacred mosque). He asked the Prophet (may peace be upon him) about it. He said : Observe *I'tikāf* (i.e. spend a night or a day near the Ka'bah) and fast.<sup>1806</sup>

(2469) The tradition mentioned above has also been transmitted by 'Abd Allah b. Budail through a different chain of narrators in a similar way. This version adds : While he ('Umar) was observing *I'tikāf* (in the sacred mosque), the people uttered (loudly) : "Allah is most great." He said : What is this, 'Abd Allah ? He said : These are the captives of the Hawāzin whom the Apostle of Allah (may peace be upon him) has set free. He said : This slave-girl too ? He sent her along with them.<sup>1807</sup>

### Chapter 847

#### A WOMAN WHO HAS A FLOW OF BLOOD COMING FROM A VEIN MAY OBSERVE *I'TIKĀF* (IN THE MOSQUE)

(2470) 'Ā'ishah (may Allah be pleased with her) said : One of the wives of the Apostle of Allah (may peace be upon him) observed *I'tikāf* along with him (in the mosque). She would see yellowness and redness. Sometimes we would place a wash-basin while she prayed.<sup>1808</sup>

1806. This shows that if a man had made a vow in pre-Islamic period, and that vow is not contrary to the Islamic teachings, he may fulfil it.

1807. This slave-girl was with 'Umar. She belonged to the Hawāzin. When the Prophet (may peace be upon him) set the captives of the Hawāzin free, he also sent her along with them.

1808. The wife who observed *I'tikāf* with him was Umm Sa'adah. She was not menstruating, but she had a flow of blood that came from a vein. This shows that a woman who has a flow of blood may stay in the mosque provided there is no apprehension of uncleaning it.

## VIII. KITĀB AL-JIHĀD<sup>1809</sup>

### [ BOOK OF JIHĀD ]

#### *Struggle in the Path of Allah to Promote the Cause of Islam*

#### *Chapter 848*

#### ON EMIGRATION<sup>1810</sup> AND DESERT LIFE

(2471) Abū Sa'īd al-Khudrī said: A bedouin asked the Prophet (may peace be upon him) about emigration.<sup>1811</sup> He replied: Woe to you! The matter of emigration is severe. Have you a camel? He said: Yes. He asked: Do you pay its *zakāt*? He said: Yes. He said: Then work (anywhere) beyond the seas; Allah will not reduce anything from (the reward of) your work.<sup>1812</sup>

(2472) Miqdām b. Shuraih reported on the authority of his father, I asked 'Ā'ishah about settling in the desert (to worship Allah in loneliness). She said: The Apostle of Allah (may peace be upon him) would go out (from Medina) to these

1809. Literally *jihād* means to struggle, to make strenuous effort and to strive hard. In the Islamic context, it stands for fighting against the infidels to promote the cause of Islam. In its wider sense, the term *jihād* comprehends all sorts of effort made sincerely in the path of Allah to spread religion. This may be fighting in the battlefield, teaching in schools, making public speeches and producing literature on Islam. Although formally it is not included in the five pillars (*arḥām*) of Islam, it is of vital importance as a fundamental doctrine of religion. As it provides strength and fresh blood to religion, its significance cannot be ignored in any circumstances.

1810. *Hijrah* literally means to migrate from one place to another. In its technical sense it stands for migration from Mecca to Medina. With the migration of the Prophet (may peace be upon him) from Mecca to Medina it was prescribed on the Muslims of Mecca to leave for Medina. But it remained binding till the conquest of Mecca. When Mecca was conquered, migration no longer remained obligatory.

1811. This bedouin did not live at Mecca. He was a bedouin and lived in the desert. He asked the Prophet (may peace be upon him) about his emigration to the city of Medina and settling there. The Prophet (may peace be upon him) did not advise him to settle at Medina due to his inconvenience.

1812. This means that when you fulfil your obligatory duties, it does not matter wherever you live in far-flung areas in the desert. Further, the reward for migration will be given to you according to your intention. Allah will not reduce the reward. Live where you are already settled, and do good works there ('*Awn al-Ma'būd*, II, 311-12).

torrential streams.<sup>1813</sup> Once he intended to go out to the desert (for worshipping Allah). He sent me a she-camel from the camels of *ṣadaqah* that was not used as a mount. He said to me : 'Ā'ishah, be lenient, for leniency makes a thing decorated, and when it is removed from a thing, it makes it defective.<sup>1814</sup>

## Chapter 849

### HAS MIGRATION ENDED ?

(2473) Mu'āwiyah said : I heard the Apostle of Allah (may peace be upon him) say : Migration will not end until repentance ends,<sup>1815</sup> and repentance will not end until the sun rises in the west.<sup>1816</sup>

(2474) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying on the day of the conquest of Mecca : There is no migration (after the conquest of Mecca,<sup>1817</sup> but only *jihād* (striving in the path of Allah) and some intention.<sup>1818</sup> So when you are summoned to go forth (for *jihād*), go forth.<sup>1819</sup>

(2475) 'Āmir said : A man came to 'Abd Allah b. 'Amr while the people were with him. He sat with him and said : Tell me anything that you heard from the Apostle of Allah (may peace be upon him). He said : I heard the Apostle of Allah

1813. This does not mean monasticism which is prohibited in Islam. The Prophet (may peace be upon him) sometimes used to go outside Medina to some lonely place to remember Allah and worship Him in solitude. At such a place a man has more power of concentration than in the hustle of life in cities.

1814. It means kindness to the she-camel. The Prophet (may peace be upon him) suggested to be kind and gentle to animals instead of beating them. Besides, he also mentioned the excellence of kindness. Leniency or kindness is a merit, and harshness is a defect and demerit.

1815. This tradition shows that the commandment for migration is eternal. It is still operative. The other tradition which follows shows that the commandment for migration after the conquest of Mecca was repealed. Both these traditions have been reconciled in a twofold way. Firstly, it means that migration that was obligatory in the early days of Islam remained no longer binding after the capture of Mecca. It became commendable or optional. Secondly, it means that the law of migration from Mecca to Medina is no longer operative. But it is operative from a non-Muslim State to a Muslim State if the Muslims are not allowed to follow the teachings of Islam there.

1816. This refers to the advent of the Last Hour.

1817. This shows that the command for obligatory migration was repealed after the conquest of Mecca.

1818. This means that migration from Mecca to Medina was no doubt discontinued, but migration in the path of Allah from one's home to distant lands for *jihād* or missionary work still continues. One should leave one's home for *jihād* with the intention of getting reward from Allah. This is a kind of migration which still survives.

1819. When the *imām* of the Muslims asks them to go forth for *jihād*, it is binding on them to leave their homes and go out for struggle in the path of Allah.

(may peace be upon him) say: A Muslim is he from whose tongue and hand the Muslims remain safe,<sup>1820</sup> and an emigrant is he who abandons what Allah has prohibited.<sup>1821</sup>

### Chapter 850

#### ON LIVING IN SYRIA

(2476) 'Abd Allah b. 'Amr said: I heard the Apostle of Allah (may peace be upon him) say: There will be migration after migration,<sup>1822</sup> and the people who are best will be those who cleave most closely to places to which Abraham migrated. The worst of its people will remain in the earth, cast out by their lands, abhorred by Allah, collected along with apes and swine by fire.<sup>1823</sup>

(2477) Ibn Hawālah reported the Apostle of Allah (may peace be upon him) as saying: It will turn out that you will be armed troops, one in Syria, one in the Yemen and one in Iraq. Ibn Hawālah said: Choose for me, Apostle of Allah, if I reach that time. He replied: Go to Syria, for it is Allah's chosen land, to which his best servants will be gathered, but if you are unwilling, go to your Yemen, and draw water from your tanks, for Allah has on my account taken special charge of Syria and its people.<sup>1824</sup>

### Chapter 851

#### ON THE ETERNITY OF JIHAD

(2478) 'Imrān b. Ḥuṣayn reported the Apostle of Allah (may peace be upon him)

1820. This means that a perfect Muslim is one who does not harm others. It is great virtue that a Muslim does not say anything or do any work which hurts other Muslims.

1821. If a man leaves his home and migrates to another place, but does not abstain from prohibited works, that is not a perfect migration. A perfect migration means to refrain from sins.

1822. In this tradition the Prophet (may peace be upon him) has predicted that sometime before the Last Hour the Muslims will migrate to Syria where Abraham migrated. This will be the second migration after the one which the Prophet (may peace be upon him) undertook from Mecca to Medina. This shows the excellence of living in Syria.

1823. This fire either means the fire that will appear just before the Last Hour, and drive the people to Syria; or this refers to the Hell-fire. In the Hell-fire men and animals will be gathered together; or donkeys and hogs mean the people who possess the qualities of these animals.

1824. During the period nearing the Last Hour perversion will spread widely in the whole world. Anarchy and disorder will prevail everywhere. The people will run from one place to another, but they will find peace and order nowhere. In such a condition the Prophet (may peace be upon him) suggested that Muslims should take shelter in Syria, Iraq or the Yemen. Muslims will be divided into three groups and they will go to these places. These places, especially Syria, will be free from perversion and anarchy as Allah will protect them as a special favour from the dominance of the unbelievers.

as saying: A section of my community will continue to fight for the right<sup>1825</sup> and overcome their opponents till the last of them fight with the Antichrist.<sup>1826</sup>

### Chapter 852

#### REWARD FOR JIHAD

(2479) Abū Sa'īd (al-Khudrī) reported: The Prophet (may peace be upon him) was asked: Which believers are most perfect in respect of faith? He replied: A man who strives in the path of Allah with his life and property,<sup>1827</sup> and a man who worships Allah in a mountain valley where he protects the people from his evil.<sup>1828</sup>

### Chapter 853

#### ON PROHIBITION FROM TOURISM

(2480) Abū Umāmah reported that a man said: Apostle of Allah, allow tourism for me. The Prophet (may peace be upon him) said: The tourism of my people is striving in the path of Allah, the Exalted.<sup>1829</sup>

### Chapter 854

#### EXCELLENCE OF RETURNING HOME FROM AN EXPEDITION

(2481) 'Abd Allah b. 'Amr reported the Prophet (may peace be upon him) as

1825. This does not refer to any particular section of the Muslim community. This includes all those who strive gallantly to promote the cause of Islam. They may be warriors, scholars, preachers, teachers, doctors of Islamic law and doctors of tradition.

1826. This refers to Imām Māhī (the rightly-guided leader of the Muslims) who will be born at a time nearing the Last Hour.

1827. *Jihad* in Allah's path is the greatest virtue that a Muslim attains. His faith becomes most perfect by making continuous struggle for the cause of Islam.

1828. This shows the excellence of worshipping Allah in solitude, away from the din of life. In a lonely place a man gives himself from the evils and mischief of others, and *vice versa*.

1829. This man wanted to go to some distant land to keep himself away from the pleasures of life, and thus he would not be able to attend the Friday prayer in congregation. The Prophet (may peace be upon him) prohibited him to do so as he would also be deprived of the knowledge of religion which he got from him at Medina. Instead, he exhorted him to strive in the path of Allah to promote the cause of Islam. The Muslims have been prohibited to live in seclusion in the desert for worshipping Allah like monks. It is better to lead a social life, engaged in worldly activities and strictly adhere to the injunctions of Islam. It may be noted that travelling in the path of Allah to preach the teachings of Islam or for some useful and important purpose is allowed and recommended. But travelling without any purpose is prohibited.



saying : Returning home is like going on an expedition.<sup>1830</sup>

### Chapter 855

#### EXCELLENCE OF FIGHTING THE ROMANS OVER AGAINST OTHER COMMUNITIES

(2482) 'Abd al-Khabir reported on the authority of his grandfather Thābit b. Qais. A woman called Umm Khallād came to the Prophet (may peace be upon him) while she was veiled. She was searching for her son who had been killed (in the battle). Some of the Companions of the Prophet (may peace be upon him) said to her : You have come here asking for your son while veiling your face ? She said : If I am afflicted with the loss of my son, I shall not suffer the loss of my modesty. The Apostle of Allah (may peace be upon him) said : You will get the reward of two martyrs for your son. She asked : Why is that so, Apostle of Allah ? He replied : Because the people of the Book have killed him.<sup>1831</sup>

### Chapter 856

#### SAILING ON THE SEA WHILE GOING ON AN EXPEDITION

(2483) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying : No one should sail on the sea except the one who is going to perform *Hajj* or '*Umrāh*, or the one who is fighting in Allah's path<sup>1832</sup> for under the sea there is a fire, and under the fire there is a sea.<sup>1833</sup>

### Chapter 857

#### EXCELLENCE OF FIGHTING ON THE SEA

(2484) Anas b. Mālik (may Allah be pleased with him) said : Umm Harām, daughter of Milhān, sister of Umm Sulaim, narrated to me that the Apostle of Allah (may

1830. This refers to getting reward for taking rest at home after an expedition. After returning from an expedition an opportunity is given for rest and refreshment before beginning another. Thus it merits reward similar to that for going on an expedition ('*Awn al-Ma'būd*, II, 314).

1831. This shows that fighting with the people of the Book (i.e. Jews and Christians) carries more reward than fighting with others.

1832. This shows that sea is not an obstacle to perform *Hajj*. If there is no way other than the sea, one should go for performing *Hajj* by sea.

1833. This means the awfulness and terrors of the havocs of the sea. While sailing on the sea one is surrounded by dangers. A traveller on the sea does not know what calamity may befall him.

It may be noted that the chain of this tradition is weak. According to Abū Dāwūd, the narrators of this tradition are obscure ('*Awn al-Ma'būd*, II, 314).

peace be upon him) took a midday nap with them. He then awoke laughing. She said: I asked: Apostle of Allah, what made you laugh? He replied: I saw some people who were sailing in the midst of the sea like kings on thrones. She said: I said: Apostle of Allah, beseech Allah that He may put me among them. He replied: You will be among them. She said: He then slept and awoke laughing. She said: I asked: Apostle of Allah, what made you laugh? He replied as he said in the first reply. She said: I said: Apostle of Allah, beseech Allah that He may put me amongst them. He replied: You will be among the first. Then 'Ubādah b. al-Ṣāmit married her and sailed on the sea on an expedition, and took her with him. When he returned, a riding beast was brought near her to ride, but it threw her down. Her neck was broken and she died.<sup>1834</sup>

(2485) Anas b. Mālik said: Whenever the Apostle of Allah (may peace be upon him) went to Qubā', he used to visit Umm Ḥarām,<sup>1835</sup> daughter of Milḥān who was married to 'Ubādah b. al-Ṣāmit. One day when he visited her, she gave him food and sat clearing his head of lice. The narrator then narrated the rest of the tradition.

Abū Dāwūd said: Daughter of Milḥān died in Cyprus.

(2486) Umm Sulaim al-Rumaiṣā' said: The Prophet (may peace be upon him) slept and awoke while she was washing her head. He awoke laughing. She asked: Apostle of Allah, are you laughing at my head? He replied: No. She then narrated the rest of the tradition, enlarging and reducing.

Abū Dāwūd said: Al-Rumaiṣā' was the foster-sister of Umm Sulaim.<sup>1836</sup>

(2487) Umm Ḥarām reported the Prophet (may peace be upon him) as saying: He who becomes sick on a stormy sea and vomits will have the reward of a martyr, and he who is drowned will have the reward of two martyrs.<sup>1837</sup>

(2488) Abū Umāmat al-Bāhill reported the Apostle of Allah (may peace be upon him) as saying: There are three persons who are in the security of Allah, the Exalted: A man who goes out on an expedition to fight in the path of Allah, the Exalted, is in the security of Allah, until He takes him unto Him (i.e. he dies), and brings him into Paradise, or brings him (alive) with reward and booty he obtains; and a man who goes

1834. The Prophet (may peace be upon him) was shown some people of his community fighting in Allah's path on the sea. He predicted that Umm Ḥarām would be among them. Her husband 'Ubādah b. al-Ṣāmit participated in an expedition on the sea and she died there. Thus the prediction of the Prophet, (may peace be upon him) came true. This happened during the caliphate of 'Uthmān.

1835. Umm Ḥarām was either the foster-aunt of the Prophet (may peace be upon him) or the maternal aunt of his father.

1836. Umm Ḥarām and Umm Sulaim were sisters. Umm Ḥarām was maternal aunt of Anas b. Mālik. She was called al-Rumaiṣā'. Umm Sulaim, daughter of Milḥān, was the mother of Anas b. Mālik. She was called al-Ghumaiṣā'. She was a learned woman.

1837. This shows the excellence and reward for sickness on the sea while fighting in the path of Allah. One who is drowned will have the double reward.

to the mosque is in the security of Allah, until He takes him unto Him (i.e. he dies), and he brings him into Paradise, or brings him with reward and spoils he obtains; and a man who enters his house after giving salutation is in the security of Allah, the Exalted.<sup>1838</sup>

### Chapter 858

#### EXCELLENCE OF KILLING AN INFIDEL

(2489) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: An infidel and the one who killed him will never be brought together in Hell.<sup>1839</sup>

### Chapter 859

#### RESPECT TO BE SHOWN BY THOSE WHO STAY AT HOME TO WOMEN OF THOSE WHO ARE ENGAGED IN *JIHAD*

(2490) Buraidah reported the Apostle of Allah (may peace be upon him) as saying: Respect to be shown by those who stay at home to the women of those who are engaged in *jihad* is to be like that shown to their mothers. If any man among those who stay at home is entrusted with the oversight of one's family who is engaged in *jihad* and betrays him, he will be set up for him on the Day of Resurrection, and he (the *mujāhid*) will be told: This (man) was entrusted with the oversight of your family, so take what you want from his good deeds. The Apostle of Allah (may peace be upon him) turned towards us and said: So what do you think.<sup>1840</sup>

Abū Dāwūd said: Qa'nab (a narrator of this tradition) was a pious man. Ibn Abī Lailā intended to appoint him a judge, but he refused, and said: If I intend to fulfil my need of a dirham, I seek the help of a person for it. He said: Which of us does not seek the help in his need? He said: Bring me out so that I may see. So he was brought out, and he concealed himself. Sufyān said: While he was concealing himself, the house suddenly fell on him, and he died.

1838 This means that there are three qualities by which a man secures the protection of Allah from all calamities. They are fighting in Allah's path, frequent visits to the mosque and saluting the people while entering the house. Allah helps those people who bear these qualities and provides security for them.

1839. This means that a person who kills an infidel while fighting in Allah's path (i.e. *jihad*) will have his sins remitted and forgiven, and will, therefore, go to Paradise. The infidel will inevitably go to Hell. Thus the man who killed an infidel will not be brought together in Hell with him.

1840. Those who cannot participate in *jihad* and stay at home are required to look after the families of those who are engaged in *jihad*. If anyone betrays them, his good deeds will be given to the *mujāhid* as a punishment.

*Chapter 860*ON THE TROOPS OF WARRIORS WHO RETURN WITHOUT  
OBTAINING BOOTY

(2491) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying: No warlike party will go out to fight in Allah's path, and gain booty without getting beforehand two-thirds of their rewards in the next world, and one-third (of their reward) will remain. And if they do not gain booty, they will get their rewards in full.<sup>1841</sup>

*Chapter 861*ENHANCEMENT OF REWARD FOR THE REMEMBRANCE OF  
ALLAH IN THE PATH OF ALLAH, THE EXALTED

(2492) Sahl b. Mu'adh reported on the authority of his father: The Apostle of Allah (may peace be upon him) said: (The reward of) prayer, fasting and remembrance of Allah is enhanced seven hundred times over (the reward of) spending in Allah's path.<sup>1842</sup>

*Chapter 862*ON A MAN WHO DIES WHILE FIGHTING IN *JIHĀD*

(2493) Abū Mālik al-Ash'arī said that he heard the Apostle of Allah (may peace be upon him) say: He who goes forth in Allah's path and dies or is killed is a martyr, or has his neck broken through being thrown by his horse or by his camel, or is stung by a poisonous creature, or dies on his bed by any kind of death Allah wishes is a martyr and will go to Paradise.<sup>1843</sup>

1841. The suggestion is that they have in this world two-thirds of the reward which they would get in the next world. Now only one-third remains which they will get in the Hereafter. In case they do not obtain booty and return safe, they will get their reward in full in the next world, as they did not get any reward in this world.

1842. This means that a man gets the reward for prayer, fasting and remembrance of Allah during the course of *jihād* seven hundred times more than the reward that he obtains for spending his property. This depends on one's sincerity and devotion. It may be noted that Zabbān b. Fā'id and Sahl b. Mu'adh are weak narrators. Therefore, this tradition is weak.

1843. A Muslim who fights against the unbelievers in the path of Allah with his life and property and dies there is a martyr and will go to Paradise.

## Chapter 863

EXCELLENCE OF GUARDING THE FRONTIER<sup>1844</sup>

(2494) Faḍālah b. 'Ubaid reported the Apostle of Allah (may peace be upon him) as saying: Everyone who dies will have fully completed his action,<sup>1845</sup> except one who is on the frontier (in Allah's path), for his deeds will be made to go on increasing till the Day of Resurrection, and he will be safe from the trial in the grave.<sup>1846</sup>

## Chapter 864

ON EXCELLENCE OF KEEPING WATCH IN THE PATH OF ALLAH,  
THE EXALTED

(2495) Sahl b. al-Hanzaliyyah said: On the day of Ḥunain we travelled with the Apostle of Allah (may peace be upon him) and took a long time until the evening came. I attended the prayer along with the Apostle of Allah (may peace be upon him). A horseman came and said: Apostle of Allah, I went before you and went up such and such mountain, and saw Hawāzin all together with their women, cattle, and sheep, having gathered at Ḥunain. The Apostle of Allah (may peace be upon him) smiled and said: That will be the booty of the Muslims tomorrow if Allah wills. He then asked: Who will go on our guard this night? Anas b. Abī Marthad al-Ghanawī said: I shall do, Apostle of Allah. He said: Then mount. He then mounted his horse, and came to the Apostle of Allah (may peace be upon him). The Apostle of Allah said to him: Go forward to this ravine till you get to the top of it. We should not be exposed to danger from your side. In the morning the Apostle of Allah (may peace be upon him) came out to his place of prayer, and offered two *rak'ahs*. He then said: Have you seen any sign of your horseman? They said: We have not, Apostle of Allah. The announcement that the time for prayer was then made, and while the Apostle of Allah (may peace be upon him) was saying the prayer, he began to glance towards the ravine, and when he finished his prayer and uttered salutation, he said: Cheer up,

1844. *Ribāṭ* means to install a cavalry at the frontier for defence. Those who guard the frontiers of an Islamic State will get the reward more than that prescribed for other virtues.

1845. This means that a man has no opportunity for doing good deeds after death. Therefore, there is no question of doing good works and then getting reward after death. But if a man guards the frontiers of a Muslim country (in Allah's path), his deeds will be made to go on increasing till the Day of Judgment, and thus he will get the reward for the works he did even after death. In a word, the reward for all virtues is closed after death, but the reward for guarding the frontiers goes on increasing till the Day of Judgment.

1846. This means that he will not be asked any question by the two angels, Munkar and Nakīr, or answering their question will be made easy for him.



for your horseman has come. We, therefore, began to look between the trees in the ravine, and sure enough he had come; he stood by the side of the Apostle of Allah (may peace be upon him) and saluted him and said: I went till I reached the top of this ravine where the Apostle of Allah (may peace be upon him) commanded me, and in the morning I looked down into both ravines but saw no one. The Apostle of Allah (may peace be upon him) asked him: Did you dismount during the night? He replied: No, except to pray or to relieve myself. The Apostle of Allah (may peace be upon him) said: You have made (Paradise) certain for you. No blame will apply to you supposing you do not work after it.<sup>1847</sup>

### Chapter 865

#### ABOMINATION OF KEEPING AWAY FROM FIGHTING IN ALLAH'S PATH

(2496) Abū Hurairah reported the Prophet (may peace be upon him) as saying: He who dies without having fought or having felt fighting (against the infidels) to be his duty will die guilty of a kind of hypocrisy.<sup>1848</sup>

(2497) Abū Umāmah reported the Prophet (may peace be upon him) as saying: He who does not join the warlike expedition (*jihād*), or equip a warrior, or looks well after a warrior's family when he is away, will be smitten by Allah with a sudden calamity.<sup>1849</sup>

Yazīd b 'Abd Rabbiḥ said in his tradition: "before the Day of Resurrection".

(2498) Anas reported the Prophet (may peace be upon him) as saying: Use your property, your persons any your tongues in striving against the polytheists.<sup>1850</sup>

1847. This means that he will get salvation, enter Paradise and win highest degrees there even if he did no more supererogatory deeds in the future. This does not exonerate him from obligatory duties. This is the reward for keeping watch in Allah's path.

1848. A man who is a true Muslim covets the dominance of Islam. He will surely fight against the infidels. If he is unable to do so due to poverty or some valid reason, he will feel it a duty at heart. He will always have the intention to participate in *jihād* whenever he finds an opportunity. But a man who neither fights in Allah's path nor has the intention to do so is like the hypocrites who do not want the promotion of Islam sincerely.

1849. A Muslim is duty bound to take part in *jihād* either in person or by helping others who are going to fight. If a man has no share in *jihād*, he might be punished by Allah even in this world.

1850. To struggle in the path of Allah with property (*amwāl*) means to spend one's property to promote the cause of Islam; to fight with one's life and person means to participate in *jihād* in person; and to struggle with one's tongue means to argue against the contentions of the infidels and to establish the teachings of Islam by delivering lectures. This might also mean cursing on the enemy of Islam.

## Chapter 866

ABROGATION OF THE COMMAND FOR DEPARTURE OF ALL INTO  
BATTLE BY THE COMMAND FOR DEPARTURE OF  
SOME PEOPLE

(2499) Ibn 'Abbās said: The Qur'ānic verse "Unless you go forth, He will punish you with a grievous penalty,"<sup>1851</sup> and the verse "It is not fitting for the people of Medina" . . . up to "that Allah might required their deed with the best (possible reward),"<sup>1852</sup> have been repealed by the verse. "Nor should the believers all go forth together."<sup>1853</sup>

(2500) Najdah b. Nufai' said: I asked Ibn 'Abbās about the verse. "Unless you go forth, He will punish you with a grievous penalty."<sup>1854</sup> He replied: The rain stopped from them. This was their punishment.

## Chapter 867

PERMISSION FOR STAYING BEHIND FROM JIHĀD DUE TO  
SOME EXCUSE

(2501) Zaid b. Thābit said: I was beside the Apostle of Allah (may peace be upon him) when the divinely-inspired calmness overtook him and the thigh of the Apostle of Allah (may peace be upon him) fell on my thigh. I did not find anything weightier than the thigh of the Apostle of Allah (may peace be upon him).<sup>1855</sup> He then regained his composure, and said: Write down. I wrote on a shoulder: "Not equal are those believers who sit (at home), other than those who have a (disabling) hurt, and those who strive in the way of Allah."<sup>1856</sup> When Ibn Umm Maktūm who was

1851. Qur'ān, ix. 39.

1852. Qur'ān, ix. 120.

1853. Qur'ān, ix. 122.

In the early phase of Islam, according to the Qur'ānic verse ix. 39, it was obligatory on all Muslims to go forth in *jihād* in all circumstances as and when demanded by the Prophet (may peace be upon him). But later on when Islam gained ground, and Muslims got the power, the injunction of public call to war was abrogated by verse ix. 122, which reads: "Nor should the believers all go forth together. If a contingent from every expedition remained behind, they could devote themselves to studies in religion and admonish the people when they return to them—that thus they (may learn) to guard themselves (against evils)." This verse shows that a party should go forth in *jihād* and others remain behind to acquire the knowledge of religion, especially when the Prophet (may peace be upon him) was present among them.

1854. Qur'ān, ix. 39.

1855. At the time of coming down of the revelation the limbs of the Prophet (may peace be upon him) became heavy and perspired because of intensity of the revelation.

1856. Qur'ān, ix. 95.

blind heard the excellence of the warriors, he stood up and said: Apostle of Allah, how is it for those believers who are unable to fight (in the path of Allah)? When he finished his question, the divinely-inspired calmness overtook him, and his thigh fell on my thigh, and I found its weight the second time as I found the first time. When the Apostle of Allah (may peace be upon him) regained his composure, he said: Recite, Zaid. So I recited: "Not equal are those believers who sit (at home)." <sup>1857</sup> The Apostle of Allah (may peace be upon him) said: "Other than those who have a (disabling hurt)." <sup>1858</sup> Zaid said: Allah, the Exalted, revealed it alone and I appended it. By Him in Whose hands is my life, I am seeing, as it were, the place where I put it (i.e. the verse) at the crack in the shoulder. <sup>1859</sup>

(2502) Anas b. Mālik reported on the authority of his father: The Apostle of Allah (may peace be upon him) said: You left behind some people in Medina who did not fail to be with you wherever you went, and whatever you spent (of your goods), and whatever valley you crossed. They asked: Apostle of Allah, how can they be with us when they are still in Medina? He replied: They were detained by a valid excuse. <sup>1860</sup>

## Chapter 868

### WHAT SUFFICES FOR *JIHĀD*

(2503) Zaid b. Khālid al-Juhanī reported the Apostle of Allah (may peace be upon him) as saying: He who equips a fighter in Allah's path has taken part in the fighting, and he who looks after a fighter's family when he is away has taken part in the fighting. <sup>1861</sup>

(2504) Abū Sa'īd al-Khudrī said: The Apostle of Allah (may peace be upon him) sent an expedition towards Banū Liḥyān and said: One of the two persons should go forth. He then said to those who sat (at home): If any of you looks after the family and property of a warrior, he will receive half the reward of the one who goes forth (in *jihād*).

1857. Qur'ān, iv. 95.

1858. Qur'ān, iv. 95.

1859. Zaid b. Thābit uttered these words to express the certainty about the revelation of this verse which contained exemption from participation in *jihād*. The disabled persons were permitted to stay behind from fighting. There was no blame on them.

1860. This shows that the Muslims who desire to participate in *jihād*, but are unable to do so due to illness, poverty or some valid reason, are granted the same reward as granted to those who participate in person. This is a kindness and grace from Allah to the Muslims.

1861. A Muslim can obtain the reward of *jihād* by providing equipment for a warrior or by looking after his family when he is away from his home.

## Chapter 869

## ON COURAGE AND COWARDICE

(2505) Abū Hurairah said : I heard the Apostle of Allah (may peace be upon him) say : What is evil in a man are alarming niggardliness and unrestrained cowardice.<sup>1862</sup>

## Chapter 870

EXPLANATION OF THE QUR'ĀNIC VERSE "AND MAKE NOT  
YOUR OWN HANDS CONTRIBUTE TO (YOUR  
DESTRUCTION)"<sup>1863</sup>

(2506) Abū 'Imrān said : We went out on an expedition from Medina with the intention of (attacking) Constantinople. 'Abd al-Raḥmān b. Khālīd b. al-Walīd was the leader of the company. The Romans were just sticking their backs to the wall of the city.<sup>1864</sup> A man (suddenly) attacked the enemy. Thereupon the people said : Stop, stop ! There is no god but Allah. He is putting himself into danger. 'Abū Ayyūb said : This verse was revealed about us, the group of the *Anṣār* (the Helpers). When Allah helped His Prophet (may peace be upon him) and gave Islam dominance, we said (i.e. thought) : Come on : Let us stay in our property and improve it. Thereupon Allah, the Exalted, revealed, "And spend of your substance in the cause of Allah, and make not your hands contribute to (your destruction)."<sup>1865</sup> To put oneself into danger means that we stay in our property and engage ourselves in its improvement, and abandon fighting (i.e. *jihād*).<sup>1866</sup>

Abū 'Imrān said : Abū Ayyūb continued to strive in the path of Allah until he (died and) was buried in Constantinople.

1862. A man does not participate in *jihād* generally due to cowardice or niggardliness. But when he takes part in *jihād* these two evils are removed. The Prophet (may peace be upon him) condemned these two evil traits in men because they restrain him from taking part in *jihād*.

1863. Qur'ān, ii. 195.

1864. This means that the Romans were waiting for the Muslim army, and were well prepared to fight with them.

1865. Qur'ān, ii. 195.

1866. This shows that the people could not correctly understand the meaning of verse ii. 195. Literally, this verse prohibits putting one's life into danger deliberately. But, actually, this means that refraining from *jihād* and devoting one's whole life, time and property in worldly affairs amount to putting oneself into danger. By this action they will be helping indirectly their own destruction. *Jihād* is the soul of their religious life.

## Chapter 871

## ON SHOOTING

(2507) 'Uqbah b. 'Āmir said : I heard the Apostle of Allah (may peace be upon him) say : Allah, Most High, will cause three persons to enter Paradise for one arrow : the maker when he has a good motive in making it, the one who shoots it, and the one who hands it ; so shoot and ride, but your shooting is dearer to me than your riding. Everything with which a man amuses himself is vain except three (things) : a man's training of his horse, his playing with his wife, and his shooting with his bow and arrow. If anyone abandons archery after becoming an adept through distaste for it, it is a blessing he has abandoned ; or he said : for which he has been ungrateful.<sup>1867</sup>

(2508) 'Uqbah b. 'Āmir al-Juhani said : I heard the Apostle of Allah (may peace be upon him) recite when he was on the pulpit : "Against them make ready your strength to the utmost of your power."<sup>1868</sup> Beware, strength is shooting ; beware, strength is shooting ; beware, strength is shooting.<sup>1869</sup>

(2509) Mu'ādh b. Jabal reported the Apostle of Allah (may peace be upon him) as saying : Fighting is of two kinds : The one who seeks Allah's favour, obeys the leader, gives the property he values, treats his associates gently and avoids doing mischief, will have the reward for all the time whether he is asleep or awake ; but the one who fights in a boasting spirit, for the sake of display and to gain a reputation, who disobeys the leader and does mischief in the earth will not return with credit or without blame.<sup>1870</sup>

(2510) Abū Hurairah reported : A man said : Apostle of Allah, a man wishes to take part in *jihād* in Allah's path desiring some worldly advantage ? The Prophet (may peace be upon him) said : He will have no reward. The people thought it terri-

1867. This shows the significance of receiving military training for the purpose of striving in the path of Allah. In this tradition there is particular emphasis on shooting. It may be noted that bow, arrow, lances and similar other weapons were used in war in the early centuries of Islam. But with the development of modern military science and new weapons the Muslims are required to undergo military training and to learn the use of modern scientific military weapons.

1868. Qur'ān, viii. 60.

1869. In modern times shooting has been replaced by guns, rifles and cannons. Therefore, this Qur'ānic verse demands the Muslims to equip themselves with modern military weapons, thus making themselves fully strong for warfare.

1870. This means that, instead of getting reward for fighting, he will incur the displeasure of Allah, for he did not fight sincerely seeking His pleasure. Striving in Allah's path is acceptable to Him only if one does so sincerely and for Allah's sake. If by fighting he has some other motive, he will get no reward.



ble, and they said to the man : Go back to the Apostle of Allah (may peace be upon him), for you might not have made him understand well. He, therefore, (went and again) asked : Apostle of Allah, a man wishes to take part in *jihād* in Allah's path desiring some worldly advantage? He replied : There is no reward for him. They again said to the man : Return to the Apostle of Allah. He, therefore, said to him third time. He replied : There is no reward for him.<sup>1871</sup>

### Chapter 872

#### ON A PERSON WHO FIGHTS SO THAT ALLAH'S WORD MAY HAVE PRE-EMINENCE

(2511) Abū Mūsā said : A bedouin came to the Apostle of Allah (may peace be upon him) and said : One man fights for reputation, one fights for being praised, one fights for booty, and one for his place to be seen.<sup>1872</sup> (Which of them is in Allah's path?) The Apostle of Allah (may peace be upon him) replied : The one who fights that Allah's word may have pre-eminence is in Allah's path.<sup>1873</sup>

(2512) 'Amr said : I heard from Abū Wā'il a tradition which surprised me ; he then narrated the tradition to the same effect (as mentioned before).

(2513) 'Abd Allah b. 'Amr said : Apostle of Allah, tell me about *jihād* and fighting. He replied : 'Abd Allah b. 'Amr, if you fight with endurance seeking from Allah your reward, Allah will resurrect you showing endurance and seeking your reward from Him, but if you fight for vain show seeking to acquire much,<sup>1874</sup> Allah will resurrect you making a vain show and seeking to acquire much. In whatever you fight or are killed, 'Abd Allah b. 'Amr, in that state Allah will resurrect you.

### Chapter 873

#### ON THE EXCELLENCE OF MARTYRDOM

(2514) 'Abd Allah b. 'Abbās reported the Apostle of Allah (may peace be upon

1871. The purpose or motive for striving in Allah's path is to promote the cause of religion and to seek the pleasure of Allah. By taking part in *jihād* one should not desire any worldly advantage. If he does so, he will lose the reward. A man can get the reward only in case he seeks Allah's pleasure.

1872. Meaning that the degree of his bravery and his eminent position should be manifest to others.

1873. This shows that a Muslim should fight in Allah's path sincerely, and not for achieving selfish ends. The goal of a warrior should be to promote the cause of Allah and to exalt His word.

1874. Meaning that he takes pride in himself and shows the people that he excels others in bravery, property and the number of people fighting along with him. Such a man will get no reward on the Day of Judgment.

him) as saying : When your brethren were smitten at the battle of Uḥud, Allah put their spirits in the crops of green birds which go down to the rivers of Paradise, eat its fruit and nestle in lamps of gold in the shade of the Throne. Then when they experienced the sweetness of their food, drink and rest, they asked : Who will tell our brethren about us that we are alive in Paradise provided with provision, in order that they might not be disinterested in *jihād* and recoil in war ?<sup>1875</sup> Allah Most High said : I shall tell them about you ; so Allah sent down ; "And do not consider those who have been killed in Allah's path," till the end of the verse.<sup>1876</sup>

(2515) Ḥasanā', daughter of Mu'āwiyah, reported on the authority of her paternal uncle : I asked the Prophet (may peace be upon him) : Who are in Paradise ? He replied : Prophets are in Paradise, martyrs<sup>1877</sup> are in Paradise, infants are in Paradise and children buried alive are in Paradise.

### Chapter 874

#### ACCEPTANCE OF THE INTERCESSION OF A MARTYR

(2516) Abū al-Dardā' reported the Apostle of Allah (may peace be upon him) as saying : The intercession of a martyr will be accepted for seventy members of his family.<sup>1878</sup>

Abū Dāwūd said : The correct name of the narrator is Rabāḥ b. al-Walīd (and not al-Walīd b. Rabāḥ as occurred in the chain of narrators in the text of the tradition).

### Chapter 875

#### ON THE VISIBILITY OF LIGHT AT THE MARTYR'S GRAVE

(2517) 'Ā'ishah (may Allah be pleased with her) said : When Negus died, we were told that a light would be seen perpetually at his grave.<sup>1879</sup>

1875. This tradition indicates the excellence of martyrdom and the highest reward which a martyr achieves after his death in the next world.

1876. Qur'ān, iii. 169.

1877. Martyrs shall be admitted to Paradise after their death in battle.

1878. Since a martyr sacrifices his life in Allah's path, he will be given the right of intercession on the Day of Judgment in favour of seventy persons of his family who are destined to go to Hell-fire. His intercession shall be accepted, and these persons will be saved from Hell-fire and sent to Paradise.

1879. This shows that Negus, Emperor of Ethiopia, who embraced Islam in the lifetime of the Prophet (may peace be upon him) must have died a martyr. That is why a light would be seen at his grave.

(2518) 'Ubaid b. Khālid al-Sulamī said : The Apostle of Allah (may peace be upon him) made a brotherhood between two men, one of whom was killed (in Allah's path), and a week or thereabouts later the other died, and we prayed at his funeral. The Apostle of Allah (may peace be upon him) asked : What did you say ? We replied: We prayed for him and said : O Allah, forgive him, and join him to his companion. The Apostle of Allah (may peace be upon him) said : What about his prayers since the time the other died, and his fasting since the time the other died—the narrator Shu'bah doubted the words, "his fasting"—and his deeds since the time the other died. The distance between them is just like the distance between heaven and earth.<sup>1880</sup>

### Chapter 876

#### FIGHTING ON WAGES

(2519) Abū Ayyūb al-Anṣārī said that he heard the Apostle of Allah (may peace be upon him) say : Capitals will be conquered at your hands, and you will have to raise companies in large armies.<sup>1881</sup> A man will be unwilling to join a company, so he will escape from his people<sup>1882</sup> and go round the tribes offering himself to them,<sup>1883</sup> saying : Whose place may I take in such and such expedition ? Whose place may I take in such and such expedition ? Beware : that man is a hireling to the last drop of his blood.<sup>1884</sup>

### Chapter 877

#### PERMISSION FOR TAKING WAGES

(2520) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon

1880. The man who died after the martyr had the opportunity to pray and to fast and thus he earned the reward of his good deeds more than the martyr. He excelled his companion in respect of degrees. This shows that a man by virtue of his good deeds can reach the rank of a martyr.

This also indicates that visibility of light at the martyr's grave was not necessary.

1881. When Islam spreads widely to all parts of the world, the ruler of the whole Muslim community will be forced to send contingents in various directions of the world to fight with infidels. This is designed to arrest the dominance of non-Muslims.

1882. He escapes from his people so that he may keep away from fighting.

1883. This is the type of man who dislikes to participate in battle willingly, but who is quite willing to take someone's place if he gets wages for it.

1884. Such a type of man who does not fight with infidels voluntarily, but fights for payment or some sort of compensation, will remain a mercenary even he is killed in the battle. He will not be considered a martyr or warrior. This shows that a Muslim should fight in Allah's path without seeking any payment for it. He should fight to please Allah.

him) as saying: The warrior gets his reward, and the one who equips him gets his own reward and that of the warrior.<sup>1885</sup>

### Chapter 878

#### ON A PERSON WHO TAKES A HIRELING TO FIGHT ON HIS BEHALF IN THE BATTLE

(2521) Ya'la b. Munyah<sup>1886</sup> said: The Apostle of Allah (may peace be upon him) announced an expedition, and I was a very old man and I had no servant. I, therefore, sought a hireling who would serve instead of me, and I would give him his portion. So I found a man. When the time of departure arrived, he came to me and said: I do not know what would be the portions. And how much would be my portion. So offer something (as wages) to me, whether there would be any portion or not. I offered three dīnārs (as his wages) for him. When some booty arrived, I wanted to offer him his portion. But I remembered the dīnārs, so I went to the Prophet (may peace be upon him) and mentioned the matter to him. He said: All I can find for him regarding this expedition of his in this world and the next is three dīnārs which were offered him.<sup>1887</sup>

### Chapter 879

#### ON A PERSON WHO FIGHTS WITHOUT THE CONSENT OF HIS PARENTS

(2522) 'Abd Allah b. 'Amr said: A man came to the Apostle of Allah (may peace be upon him) and said: I came to you to take the oath of allegiance to you on emigration, and I left my parents weeping. He (the Prophet) said: Return to them

1885. A man who equips the fighter in the path of Allah gets the double reward, one for helping him financially and one for fighting, for he would not fight if he did not equip him. This is according to Abū Ḥanīfah. Al-Shāfi'ī prohibits a fighter to accept any financial aid.

1886. Munyah is the name of his mother. In some copies of *Sunan Abū Dāwūd* the name occurs as Ya'la b. Umayyah. Umayyah is the name of his father.

1887. There is a difference of opinion amongst scholars whether a portion can be given to a hireling like other fighters. According to al-Awzā'ī, Ishāq and al-Shāfi'ī (according to a statement), no portion from the booty can be given to him. Whether he fights or not, he will be given his wages. According to Mālik and Ahmad, a portion from the booty will be given to him, if he remained along with the fighters, though he did not actually fight. According to another view, an option will be given to him between his portion and his wages (*'Awn al-Ma'būd*, II, 324).

and make them laugh as you made them weep.<sup>1888</sup>

(2523) 'Abd Allah b. 'Amr said : A man came to the Prophet (may peace be upon him) and said : Apostle of Allah, may I take part in *jihād* ? He asked : Do you have parents ? He replied : Yes. He said : So strive for them.<sup>1889</sup>

Abū Dāwūd said : The name of the narrator Abū al-'Abbās, a poet, is al-Sā'ib b. Farrukh.

(2524) Abū Sa'īd al-Khudrī said : A man emigrated to the Apostle of Allah (may peace be upon him) from the Yemen. He asked (him) : Have you anyone (of your relatives) in the Yemen ? He replied : My parents. He asked : Did they permit you ? He replied : No. He said : Go back to them and ask for their permission. If they permit you, then fight (in the path of Allah), otherwise be devoted to them.

### Chapter 880

#### WOMEN MAY FIGHT IN THE PATH OF ALLAH

(2525) Anas said : When the Apostle of Allah (may peace be upon him) went on an expedition, he took Umm Sulaim, and he had some women of the *Anṣār* who supplied water and tended the wounded.<sup>1890</sup>

### Chapter 881

#### FIGHTING ALONG WITH THE TYRANT RULERS

(2526) Anas b. Mālik reported the Apostle of Allah (may peace be upon him) as saying : Three things are the roots of faith : to refrain from (killing) a person who utters, "There is no god but Allah" and not to declare him unbeliever whatever sin he commits, and not to excommunicate him from Islam for his any action ; and *jihād* will be performed continuously since the day Allah sent me as a prophet until the day the last member of my community will fight with the Dajjāl (Antichrist).<sup>1891</sup>

1888. In case a man participates in *jihād* voluntarily, he should ask for the permission of his parents. If *jihād* is obligatory announced from the ruler of Muslims, there is no need of their permission.

1889. This shows that if the *jihād* is not obligatory on every Muslim, one should serve one's parents and look after them in their old age. In the case of emergency, one should participate in *jihād*.

1890. This tradition indicates that women may go forth for *jihād* along with men. They should help fighters in the battlefield. Supplying water, tending the wounded, and performing similar other auxiliary works are their duties in *jihād*. They are allowed to fight in case of emergency and necessity.

1891. This probably refers to Mahdī or Jesus Christ who will descend from the heaven before the Last Hour. Thus *jihād* will perpetuate till the Last Hour.



The tyranny of any tyrant and the justice of any just (ruler) will not invalidate it.<sup>1892</sup> One must have faith in Divine decree.

(2527) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: Striving in the path of Allah (*jihād*) is incumbent on you along with every ruler, whether he is pious or impious;<sup>1893</sup> the prayer is obligatory on you behind every believer,<sup>1894</sup> pious or impious, even if he commits grave sins; the (funeral) prayer<sup>1895</sup> is incumbent upon every Muslim, pious and impious, even if he commits major sins.<sup>1896</sup>

### Chapter 882

#### ON A PERSON WHO RIDES ON THE RIDING-BEAST OF ANOTHER MAN TO FIGHT IN THE PATH OF ALLAH

(2528) Jābir b. 'Abd Allah reported about the Apostle of Allah (may peace be upon him) that he intended to go on an expedition. He said: O group of the emigrants (*Muhājirūn*) and the helpers (*Anṣār*), among your brethren there are people who have neither property nor family. So one of you should take with him two or three persons; so any of us who has a riding beast should not ride on it but by turns, that is, (he should provide a ride) for one of them. I, therefore, took two or three persons with me. I also rode on my camel by turns like one of them.<sup>1897</sup>

### Chapter 883

#### ON A MAN WHO FIGHTS IN THE PATH OF ALLAH SEEKING REWARD AND BOOTY

(2529) 'Abd Allah b. Ḥawālah al-Azdī said: The Apostle of Allah (may peace be upon him) sent us on foot to get spoil, but we returned without getting any. When he

1892. No ruler, whether just or unjust, can eliminate *jihād*. If an unjust ruler performs *jihād*, the Muslims should take part in *jihād* with him.

1893. This shows that the Muslims should strive in the path of Allah even in the company of tyrant rulers.

1894. If an impious ruler leads the Muslims in prayer, they are allowed to offer prayer behind him, in order to maintain the integrity of the community and to avoid chaos.

1895. Here prayer means the funeral prayer. This tradition shows that funeral prayer should be offered for every Muslim after death, whether he is pious or impious.

1896. This tradition is weak. Makhūl did not hear traditions directly from Abū Hurairah. A link is missing between Makhūl and Abū Hurairah.

1897. This shows the significance of *jihād*. If the people have no property or riding beasts, they may share other people who have these things. One should not keep away from *jihād* due to petty excuses.

saw the signs of distress on our faces, he stood up on our faces and said : O Allah, do not put them under my care, for I would be too weak to care for them ; do not put them in care of themselves, for they would be incapable of that, and do not put them in the care of men, for they would choose the best things for themselves. He then placed his hand on my head and said : Ibn Ḥawālah, when you see the caliphate<sup>1898</sup> has settled in the holy land, earthquakes, sorrows and serious matters will have drawn near and on that day the Last Hour will be nearer to mankind than this hand of mine is to your head.

Abū Dāwūd said : ‘Abd Allah b. Ḥawālah belongs to Ḥims.

### Chapter 884

#### ON A MAN WHO SELLS OUT HIS SOUL (FOR THE PLEASURE OF ALLAH)

(2530) ‘Abd Allah b. Mas‘ūd reported the Apostle of Allah (may peace be upon him) as saying : Our Lord Most High is pleased with a man who fights in the path of Allah, the Exalted ; then his companions fled away (i.e. retreated). But he knew that it was a sin (to flee away from the battlefield), so he returned, and his blood was shed. Thereupon Allah, the Exalted, says to His angels : Look at My servant ; he returned seeking what I have for him (i.e. the reward), and fearing (the punishment) I have, until his blood was shed.<sup>1899</sup>

### Chapter 885

#### ON A MAN WHO EMBRACES ISLAM AND IS KILLED ON THE SAME SPOT IN THE PATH OF ALLAH, THE EXALTED

(2531) Abū Hurairah said : ‘Amr b. ‘Uqaish had given usurious loans in pre-Islamic period ; so he disliked to embrace Islam until he took them.<sup>1900</sup> He came on the day of Uhud and asked : Where are my cousins ? They (the people) replied : At

1898. This means the establishment of caliphate in the territory from Medina to Syria before the Last Hour.

This tradition also indicates that it is permissible for a man to strive in Allah's path seeking reward from Allah and His pleasure and also spoils of war. The Prophet (may peace be upon him) sent the contingent to get the booty, but they could not get it. It is, however, better that a man fights in Allah's path only to seek His pleasure and reward in the Hereafter.

1899. To flee away from the battlefield is a grave sin. One is not allowed to run away from the front until one dies. Allah is pleased very much with a man who comes back to the battlefield and fights with the enemy until he is killed.

1900. As usury is forbidden in Islam, he did not like to embrace Islam so that he could take interest.

Uḥud. He asked: Where is so-and-so? They said: At Uḥud. He asked: Where is so-and-so? They said: At Uḥud. He then put on his coat of mail and rode his horse; he then proceeded towards them. When the Muslims saw him, they said: Keep away, 'Amr. He said: I have become a believer. He fought until he was wounded. He was then taken to his family wounded. Sa'd b. Ma'ādh came to his sister: Ask him (whether he fought) out of partisanship, out of anger for them, or out of anger for Allah. He said: Out of anger for Allah and His Apostle. He then died and entered Paradise. He did not offer any prayer for Allah.<sup>1901</sup>

### Chapter 886

#### ON A PERSON WHO IS KILLED WITH HIS OWN WEAPON

(2532) Salamah b. al-Akwa' said: On the day of the battle of Khaibar, my brother fought desperately. But his sword fell back on him and killed him. The Companions of the Apostle of Allah (may peace be upon him) talked about him and doubted it (his martyrdom) saying: A man who died with his own weapon. The Apostle of Allah (may peace be upon him) said: He died as a warrior striving in the path of Allah. Ibn Shihāb said: I asked the son of Salamah b. al-Akwa'. He narrated to me on the authority of his father similar to that, except that he said: The Apostle of Allah (may peace be upon him) said: They told a lie; he died as a warrior striving in the path of Allah. There is a double reward for him.<sup>1902</sup>

(2533) Abū Salām reported on the authority of a man from the Companions of the Prophet (may peace be upon him). He said: We attacked a tribe of Juhainah. A man from the Muslims pursued a man of them, and struck him but missed him. He struck himself with the sword. The Apostle of Allah (may peace be upon him) said: Your brother, O group of Muslims. The people hastened towards him, but found him dead. The Apostle of Allah (may peace be upon him) wrapped him with his clothes and his blood, and offered (funeral) prayer for him and buried him. They said: Apostle of Allah, is he a martyr? He said: Yes, and I am witness to him.

### Chapter 887

#### PRAYER AT THE BEGINNING OF FIGHTING

(2534) Sahl b. Sa'd reported the Apostle of Allah (may peace be upon him) as saying: Two (prayers) are not rejected, or seldom rejected: Prayer at the time of the

1901. Immediately after his embracing Islam he fought and died. At that moment there was no time of prayer.

1902. This shows that if a warrior in the path of Allah is killed accidentally with his own weapon, he will be a martyr.

call to prayer, and (the prayer) at the time of fighting, when the people grapple with each other.

Mūsā said : Rizq b. Sa'īd b. 'Abd al-Raḥmān reported from Abū Ḥāzim on the authority of Sahl b. Sa'd from the Prophet (may peace be upon him) as saying : And while it is raining.<sup>1903</sup>

### Chapter 888

#### ON A PERSON WHO ASKS ALLAH FOR MARTYRDOM

(2535) Mu'ādh b. Jabal said that he heard the Apostle of Allah (may peace be upon him) say : If anyone fights in Allah's path as long as the time between two milkings of a she-camel, Paradise will be assured for him. If anyone sincerely asks Allah for being killed and then dies or is killed, there will be a reward of a martyr for him. Ibn al-Muṣaffā added from here : If anyone is wounded in Allah's path, or suffers a misfortune, it will come on the Day of Resurrection as copious as possible, its colour saffron, and its odour musk ; and if anyone suffers from ulcers while in Allah's path, he will have on him the stamp of the martyrs.

### Chapter 889

#### DISAPPROVAL OF CLIPPING THE FORELOCKS AND TAILS OF HORSES

(2536) 'Utbah b. 'Abd al-Sulamī said that he heard the Apostle of Allah (may peace be upon him) say : Do not cut the forelocks, manes, or tails of horse, for their tails are their means of driving flies, their manes provide them with warmth, and blessing is tied to their forelocks.<sup>1904</sup>

### Chapter 890

#### COLOURS APPRECIATED FOR THE HORSES

(2537) Abū Wahb al-Jushamī, who was a Companion, reported the Apostle of Allah (may peace be upon him) as saying : Keep to every dark bay horse with a white blaze and white on the legs, or sorrel with a white blaze and white on the legs, or black with a white blaze and white on the legs.<sup>1905</sup>

1903. One should be mindful to pray at these moments as the prayer is accepted by Allah.

1904. As the horses are used in *jihād*, the Prophet (may peace be upon him) gave detailed instructions for their proper maintenance.

A narrator of this tradition is obscure ; hence it is weak.

1905. The Prophet (may peace be upon him) favoured the colours of the horses that are generally of supreme quality. Horses of high breed and quality should be used in *jihād*.

(2538) Abū Wahb reported the Apostle of Allah (may peace be upon him) as saying: Keep to every sorrel horse with a white blaze and white on the legs, or dark bay with a white blaze. He then mentioned something similar. Muḥammad b. al-Muhājir said: I asked him: Why was a sorrel horse preferred? He replied: Because the Prophet (may peace be upon him) had sent a contingent, and the man who first brought the news of victory was the rider of a sorrel horse.

(2539) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: The most favoured horses are the sorrel.

### Chapter 891

#### CAN A MARE BE CALLED A HORSE?

(2540) Abū Hurairah said: The Apostle of Allah (may peace be upon him) used to name a mare a horse.<sup>1906</sup>

### Chapter 892

#### THE HORSES WHICH ARE DISAPPROVED

(2541) Abū Hurairah said: The Prophet (may peace be upon him) disapproved the *shikāl* horses: *shikāl* are the horses that are white on their right hind-leg and white on their left foreleg, or white on their right foreleg and left hind-leg.<sup>1907</sup>

Abū Dāwūd said: This means alternate legs.

### Chapter 893

#### COMMANDMENT OF PROPER CARE OF THE ANIMALS AND BEAST

(2542) Sahl b. al-Ḥanzalliyah said: The Apostle of Allah (may peace be upon him) came upon an emaciated camel and said: Fear Allah regarding these dumb animals. Ride them when they are in good condition and feed them when they are in good condition.<sup>1908</sup>

1906. In Arabic the word *faras* applies both to male and female horses.

1907. This interpretation of *shikāl* horse has been given by the narrator. But the lexicographers interpret it as a horse which is white on three legs and on the one it has the same colour as it has on its body, or *vice versa*. It has been probably ascertained by experience that horses bearing such colour are not of good quality and breed. Therefore, they should not be used in *jihād*.

1908. The Prophet (may peace be upon him) was merciful not only for men but also for animals. He could not tolerate the miserable condition of the camel. If a man has domestic animals, he should feed them properly and should not load them beyond their capacity.



(2543) 'Abd Allah b. Ja'far said: The Apostle of Allah (may peace be upon him) seated me behind him (on his ride) one day, and told me secretly a thing asking me not to tell it to anyone. The place for easing himself dearer to the Apostle of Allah (may peace be upon him) was a mound or host of palm trees by which he could conceal himself. He entered the garden of a man from the *Anṣār* (Helpers). All of a sudden when a camel saw the Prophet (may peace be upon him) it wept tenderly producing yearning sound, and its eyes flowed. The Prophet (may peace be upon him) came to it and wiped the temple of its head. So it kept silence. He then said: Who is the master of this camel? Whose camel is this? A young man from the *Anṣār* came and said: This is mine, Apostle of Allah. He said: Don't you fear Allah about this beast which Allah has given in your possession. It has complained to me that you keep it hungry and load it heavily which fatigues it.<sup>1909</sup>

(2544) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: While a man was going on his way, he felt himself thirsty severely. He found a well and he went down in it. He drank water and came out. Suddenly he saw a dog panting and eating soil due to thirst. The man said (to himself): This dog must have reached the same condition due to thirst as I had reached. So he went down into the well, filled his sock with water, held it with his mouth and came up. He supplied water to the dog. Allah appreciated this action of his, and forgave him. They asked: Apostle of Allah, is there any reward for us for these beasts? He replied: For every cool liver there is a reward.<sup>1910</sup>

### Chapter 894

#### STAYING ON THE STATIONS

(2545) Anas b. Mālik said: When we alighted at a station (for stay), we did not pray until we untied the saddles of the camels.<sup>1911</sup>

### Chapter 895

#### TO GARLAND THE HORSES WITH BOWSTRINGS

(2546) Abū Bashīr al-Anṣārī said that he was with the Apostle of Allah (may

1909. This shows that the master of the animals should be kind to them and should not use them beyond their capacity. They should feed them properly.

1910. If a man supplies water to an animal and feeds it properly, he is rewarded for it by Allah. Islam has protected the rights of animals also.

1911. First they unloaded the camels and other mounts and then offered prayer.

peace be upon him) on one of his journeys. The Apostle of Allah (may peace be upon him) sent a messenger. The narrator 'Abd Allah b. Abū Bakr said: I think he said while the people were sleeping: No necklace of bowstring or anything else must be left on a camel's neck, but must be cut off. The narrator Mālik said: I think this was due to evil eye.<sup>1912</sup>

### *Chapter 896*

#### PROPER CARE OF THE HORSES, TYING THEM AND RUBBING DOWN THEIR RUMPS

(2547) Abū Wahb al-Jushamī, who was a Companion, said: The Apostle of Allah (may peace be upon him) said: Tie the horses, rub down their forelocks and their buttocks (or he said: their rumps), and put things on their necks, but do not put bowstrings.

### *Chapter 897*

#### HANGING BELLS (IN THE NECKS OF HORSES AND CAMELS)

(2548) Umm Ḥabibah reported the Prophet (may peace be upon him) as saying: The angels do not go with a travelling company in which there is a bell.<sup>1913</sup>

(2549) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: The angels do not accompany the fellow travellers who have a dog or bell (with them).<sup>1914</sup>

(2550) Abū Hurairah reported the Prophet (may peace be upon him) as saying: The bell is a wooden wind musical instrument of Satan.

### *Chapter 898*

#### PROHIBITION OF RIDING A BEAST WHICH EATS DUNG

(2551) Ibn 'Umar said: It has been prohibited to ride the beast which eats

1912. The Arabs used to garland the camels with bowstring with a view to warding off the evil eye. The Prophet (may peace be upon him) prohibited this custom, as none can ward off the evil eye except Allah.

1913 The Prophet (may peace be upon him) disliked the use of bells in the necks of riding beasts as these inform the enemy about the approach of the army.

1914. The Prophet (may peace be upon him) disliked to have a dog in the caravan as it is impure. Another tradition says that angels do not enter the house where there is a dog. Therefore, it is better to keep the dog away from the caravan:

dung.<sup>1915</sup>

(2552) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) prohibited to ride a camel which eats dung.

### *Chapter 899*

#### ON A MAN WHO NAMES HIS BEAST

(2553) Mu'ādh said: I was seated behind the Prophet (may peace be upon him) on a donkey that was called 'Ufair.<sup>1916</sup>

### *Chapter 900*

#### CALLING THE WARRIORS AT THE TIME OF DEPARTURE BY SAYING: O CAVALRY OF ALLAH, RIDE

(2554) Samurah b. Jundub said: The Prophet (may peace be upon him) named our cavalry "the Cavalry of Allah," when we were struck with panic, and when panic overtook us, the Apostle of Allah (may peace be upon him) commanded us to be united, to have patience and perseverance; and to be so when we fought.

### *Chapter 901*

#### PROHIBITION FROM CURSING A BEAST

(2555) 'Imrān b. Ḥuṣain said: The Prophet (may peace be upon him) was on a journey. He heard a curse. He asked: What is this? They (the people) said: This is so-and-so (a woman) who cursed her riding beast. The Prophet (may peace be upon him) said: Remove the saddle from it, for it is accursed. So they removed (the saddle) from it. 'Imrān said: As if I am looking at it, a grey she-camel.<sup>1917</sup>

### *Chapter 902*

#### PROHIBITION FROM PROVOCATING THE BEASTS FOR FIGHTING

(2556) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) pro-

1915. The reason for prohibition from riding a beast which eats dung is that when it perspires, the sweat is impure and it produces bad smell. The rider by touching it will naturally become impure.

1916. This means a small animal of grey colour. This shows that there is no harm to give name to animals.

1917. This shows that one should not curse the animals. The Prophet (may peace be upon him) asked to remove the saddle as a punishment for the woman who cursed her she-camel.

hibited to provoke the beasts<sup>1918</sup> for fighting.

### *Chapter 903*

#### ON BRANDING THE BEASTS

(2557) *ʿAṣ b. Mālik* said: I brought my brother when he was born to the Prophet (may peace be upon him) to chew something for him and rub his palate with it, and found him in a sheep pen branding the sheep, I think, on their ears.<sup>1919</sup>

### *Chapter 904*

#### PROHIBITION FROM BRANDING AND STRIKING THE FACE OF THE ANIMALS

(2558) *Jābir* reported the Prophet (may peace be upon him) as saying when an ass which had been branded on its face passed him: Did it not reach you that I cursed him who branded the animals on their faces or struck them on their faces. So he prohibited it.<sup>1920</sup>

### *Chapter 905*

#### PROHIBITION OF MAKING ASSES COVER MARES

(2559) *ʿAlī b. Abī Ṭālib* said: The Apostle of Allah (may peace be upon him) was present with a she-mule which he rode, so *ʿAlī* said: If we made asses cover mares we would have animals of this type. The Apostle of Allah (may peace be upon him) said: Only those who do not know do that.<sup>1921</sup>

### *Chapter 906*

#### THREE PERSONS RIDING A BEAST

(2560) *ʿAbd Allah b. Jaʿfar* said: When the Prophet (may peace be upon him)

1918. The reason for prohibition of provoking the beasts is that it causes unnecessary harm to them. Moreover, it is sheer wastage of time to watch the fighting of the animals.

1919. This was a custom for the purpose of acquiring blessing for children.

1920. This shows that branding the animals on their faces or striking their faces is strictly forbidden, for it hurts them severely. Branding the animals on other parts is permissible.

1921. This shows that making asses cover mares to get mules is not permissible. The Prophet (may peace be upon him) did not allow this, for horses are more useful for *jihād* than mules. But riding on mules is permissible.

arrived after a journey, we were taken for his reception.<sup>1922</sup> Any of us who met him first, he lifted him in front of him. As I was the first to meet him, he lifted me in front of him. Then Ḥasan or Ḥusain was brought to him and he set him behind him. We then entered Medina, and we were (riding) so (three on one beast).<sup>1923</sup>

### *Chapter 907*

#### TO REMAIN STAYING ON A BEAST

(2561) Abū Hurairah reported the Prophet (may peace be upon him) as saying: Do not treat the backs of your beasts as pulpits, for Allah has made them subject to you only to convey you to a town which you cannot reach without difficulty, and He has appointed the earth (a floor to work) for you, so conduct your business on it.<sup>1924</sup>

### *Chapter 908*

#### ON SIDE CAMELS

(2562) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: There are camels which belong to devils, and there are houses which belong to devils. As for the camels of the devils, I have seen them. One of you goes out with his side camels which he has fattened, neither riding any of them nor giving a lift to a tired brother when he meets.<sup>1925</sup> As regards the houses of the devils, I have not seen them. The narrator Sa'īd says: I think they are those cages (camel litters) which conceal people with brocade.<sup>1926</sup>

1922. The children of his household were brought to him outside Medina to receive him.

1923. This tradition shows that it is permissible to seat a person in front and behind the rider on a beast. Three persons are also allowed to ride over beast provided it does not harm it.

1924. It is not permissible to remain staying on a beast while it is standing. The riding beasts are meant to convey the people from one place to another. When a man reaches his destination, he should come down from his ride. It is permissible only in case of some need, as the Prophet (may peace be upon him) delivered his sermon in 'Arafāt standing on his she-camel.

1925. Some people have surplus camels which they do not need for their riding or transport. They carry these camels with them as side camels for pomp and show. Sometimes they find a needy Muslim on the way who cannot walk but they do not give this side camel to him who is in need of it. The Prophet (may peace be upon him) called such camels "the camels of the devil". By this the Prophet (may peace be upon him) exhorted Muslims to help their needy brethren and spend their surplus wealth on them.

1926. The Prophet (may peace be upon him) did not like the camel litters decorated with precious cloths. He called them the houses of the devils. It is not permissible to spend money on decoration and display when other Muslims are poor and needy. The money spent on decoration and luxury should be spent on the poor and indigent.



*Chapter 909***ON GOING QUICKLY AND PROHIBITION FROM STAYING AT  
THE ROADS AT NIGHT**

(2563) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: When you travel in fertile country, give the camels their due (from the ground), and when you travel in time of drought make them go quickly.<sup>1927</sup> When you intend to encamp in the last hours of the night, keep away from the roads.<sup>1928</sup>

(2564) A similar tradition has also been narrated by Jābir b. 'Abd Allah from the Prophet (may peace be upon him). But this version adds after the phrase "their due": And do not go beyond the destinations.<sup>1929</sup>

*Chapter 910***TRAVELLING BY NIGHT**

(2565) Anas reported the Apostle of Allah (may peace be upon him) as saying: Keep to travelling by night, for the earth is traversed (more easily) by night.<sup>1930</sup>

*Chapter 911***THE MASTER OF THE BEAST IS MORE ENTITLED TO RIDE  
IN FRONT**

(2566) Buraidah said: While the Apostle of Allah (may peace be upon him) was walking a man who had an ass came to him and said: Apostle of Allah, ride; and the man moved to the back of the animal. The Apostle of Allah (may peace be upon him) said: No, you have more right to ride in front on your animal than me unless you grant that right to me. He said: I grant it to you. So he mounted.

1927. In a fertile country no one will object to the grazing of the camels. But in the time of drought, people will object to the grazing. Hence the Prophet (may peace be upon him) forbade to make them graze in the time of drought.

1928. The Prophet (may peace be upon him) prohibited to stay on the roads at night because people and beasts pass there, and they are the resort of insects at night. Hence the travellers should stay away from roads.

1929. One should not go beyond one's destination so that the beast may not become fatigued.

1930. Literally, the earth is folded up. This probably means that at night the journey seems easier and shorter.

## Chapter 912

## TO HAMSTRING THE BEAST IN THE BATTLE

(2567) 'Abbād b. 'Abd Allah b. al-Zubair said : My foster-father said to me—he was one of Banū Murrah b. 'Awf, and he was present in that battle, the battle of Mūtah : By Allah, as if I am seeing Ja'far who jumped from his reddish horse and hamstrung it ; he then fought with the people until he was killed,<sup>1931</sup>

Abū Dāwūd said : The tradition is not strong.

## Chapter 913

## RACING FOR WAGER

(2568) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Wagers are allowed only for racing camels, or horses or shooting arrows.<sup>1932</sup>

(2569) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) held race between the horses which had been made lean by training from al-Ḥafyā'. The goal was Thanīyyat al-Wadā'.<sup>1933</sup> and he held a race between the horses which had not undergone such training from the Thanīyyah to the mosque of the Banū Zuraiq<sup>1934</sup> and 'Abd Allah was one of the racers.<sup>1935</sup>

(2570) Ibn 'Umar said : The Prophet (may peace be upon him) used to make lean by training<sup>1936</sup> horses which he employed in the race.<sup>1937</sup>

(2571) Ibn 'Umar said : The Prophet (may peace be upon him) used to hold a race between horses and kept the one in the fifth year at a long distance.

1931. It is permissible to hamstring the beast in the battle if a warrior fears that he will be defeated and the enemy will utilise it. This might cause to increase the strength of the enemy.

1932. Wagers are allowed in those races and competitions that are related to *jihād*, and not in those things that are meant only for sport and enjoyment. This is allowed only to encourage preparation for *jihād*.

1933. Thanīyyah is a mountain pass. Thanīyyat al-Wadā' is a pass overlooking Medina by which the people went on the road to Mecca. Al-Ḥafyā' is a place outside Medina. The distance between al-Ḥafyā' and Thanīyyat al-Wadā' is six miles.

1934. The distance is of a mile.

1935. Holding a horse race is permissible to encourage the Muslims to make preparation for *jihād*.

1936. The process of training for making a horse lean (*idmār*) is that it is earlier fattened by feeding richly. Then the provision is diminished gradually to make it normal. It is then admitted to a room where it is covered with cloths until it becomes warm and perspires. When the sweat is dried, its flesh becomes light and it gains more strength for race.

1937. This shows that making horses strong by some training for *jihād* is permissible.

## Chapter 914

## RACING ON FOOT

(2572) 'Ā'ishah said while she was on a journey along with the Apostle of Allah (may peace be upon him): I had a race with him (the Prophet) and I outstripped him on my feet. When I became fleshy, (again) I had a race with him (the Prophet) and he outstripped me. He said: This is for that outstripping.<sup>1938</sup>

## Chapter 915

ON ENTERING A HORSE WITH TWO OTHER HORSES  
IN A RACE<sup>1939</sup> FOR WAGER

(2573) Abū Hurairah reported the Prophet (may peace be upon him) as saying: If one enters a horse with two others when he is not certain that it cannot be beaten, it is not gambling; but when one enters a horse with two others when he is certain it cannot be beaten, it is gambling.<sup>1940</sup>

(2574) The tradition mentioned above has also been transmitted by al-Zuhri with the chain of 'Abbād and to the same effect.

Abū Dāwūd said: This tradition has also been narrated by Ma'mar, Shu'aib and 'Aqil on the authority of al-Zuhri from a number of scholars, and this is the soundest one in our opinion.

## Chapter 916

ON TAKING AN ADDITIONAL HORSE BEHIND ONE'S HORSE  
TO URGE IT ON IN A HORSE RACE

(2575) 'Imrān b. Ḥuṣain reported the Prophet (may peace be upon him) as

1938. Apart from sporting and playing with the wives, the Prophet (may peace be upon him) gave them a sort of training for *jihād*.

1939. The Arabic word is *muḥallil* meaning a man who makes the race lawful by entering a horse with two others. In case the two parties hold a horse race stipulating a wager from both sides granting a reward for the winner, it is gambling. Hence the Prophet (may peace be upon him) proposed to enter a third horse for making the race lawful. Racing for a wager from sides is illegal.

1940. In a horse race if the betting of a reward for the winner is stipulated by the ruler of the Muslims, or from one side alone, the race is legal. If the betting is stipulated from both sides, the third horse should be entered to make it lawful, provided it is not certain for its defeat or success. If it wins, it will get the reward. If it is beaten, it will not give anything. In case it is certain that this third horse will win the race, or will be beaten, it is of no use to enter it ('*Awā al-Ma'bū'*, II, 334-35).

saying : There must be no shouting or leading another horse at one's side.<sup>1941</sup> Yaḥyā added in his tradition : When racing for a wager.

(2576) Qatādah said : Taking another horse behind one's horse to urge it on and taking another horse at one's side are (done) in a horse race.

### Chapter 917

#### EMBELLISHMENT OF THE SWORD WITH SILVER

(2577) Anas said : The pommel of the sword of the Apostle of Allah (may peace be upon him) was of silver.<sup>1942</sup>

(2578) Sa'īd b. Abū al-Ḥasan said : The pommel of the sword of the Apostle of Allah (may peace be upon him) was of silver.

Qatādah said : I do not know that anyone has supported him for that (for the tradition narrated by Sa'īd b. Abū al-Ḥasan).

(2579) The tradition mentioned above has also been narrated by Anas b. Mālik through a different chain of narrators. He mentioned similar words.

Abū Dāwūd said : The strongest of these traditions is the one of Sa'īd b. Abū al-Ḥasan. The rest are weak.

### Chapter 918

#### ENTERING THE MOSQUE WITH AN ARROW

(2580) Jābir said : The Apostle of Allah (may peace be upon him) ordered a man who was distributing arrows not to pass the mosque with them except that he is holding their heads.<sup>1943</sup>

(2581) Abū Mūsā reported the Apostle of Allah (may peace be upon him) as saying : When one of you passes our mosque or our market with an arrow, he should hold its head, or hold it with his hand (the narrator is doubtful), so that no harm may be done to any Muslim.

1941. *Jalab* means to take another horse behind one's horse in a racing for shouting to urge it on. *Janab* means to take a horse alongside his horse to which he may transfer if he is afraid his horse may be beaten.

1942. This shows that embellishment of weapons with silver is permissible.

1943. The Prophet (may peace be upon him) prohibited to pass a gathering or a mosque with an arrow so that no harm be done to anyone. If a man passes the mosque with an arrow, he should hold its head. This can be applied to any weapon harmful to the people.

*Chapter 919*

## PROHIBITION OF HANDING THE DRAWN SWORD

(2582) Jābir said : The Prophet (may peace be upon him) prohibited to hand the drawn sword.<sup>1944</sup>

*Chapter 920*

## PROHIBITION OF CUTTING A PIECE OF LEATHER BETWEEN TWO FINGERS

(2583) Samurah b. Jundub said : The Apostle of Allah (may peace be upon him) prohibited to cut a piece of leather between two fingers.<sup>1945</sup>

*Chapter 921*

## WEARING COATS OF MAIL

(2584) Al-Sā'ib b. Yazīd reported on the authority of a man whom he named : The Apostle of Allah (may peace be upon him) put on two coats of mail during the battle of Uhud as a double protection. (The narrator is doubtful about the word *ṣahara* or *labisa*.)

*Chapter 922*

## ON STANDARDS AND BANNERS

(2585) Yūnus b. 'Ubaid, client of Muhammad b. al-Qāsim, said that Muhammad b. al-Qāsim sent to al-Barā' b. al-'Āzib to ask him about the standard of the Apostle of Allah (may peace be upon him). He said : It was black and square, being made of a woollen rug.

(2586) Jābir said : When the Prophet (may peace be upon him) entered Mecca, his banner was white.

(2587) Simāk reported on the authority of a man from his people, on the authority of another man from them : I saw that the standard of the Apostle of Allah (may peace be upon him) was yellow.<sup>1946</sup>

1944. This is meant to prevent harm to the person who receives the sword. If a man hands a sword to another man, he should hand it in a sheath or cover to avoid harm to him.

1945. The Prophet (may peace be upon him) prohibited cutting the leather between two fingers so that the fingers are not injured by any mishap.

1946. A narrator in the chain of this tradition is obscure.



*Chapter 923*TO ASK FOR ASSISTANCE (FROM ALLAH) THROUGH LOW  
AND WEAK PERSONS

(2588) Abū al-Dardā' said : I heard the Apostle of Allah (may peace be upon him) say : Seek for me weak persons, for you are provided means of subsistence and helped through your weaklings.<sup>1947</sup>

Abū Dāwūd said : Zaid b. Arṭāt is the brother of 'Adī b. Arṭāt.

*Chapter 924*

## ON A MAN WHO PRONOUNCES THE WAR-CRY LOUDLY

(2589) Samurah b. Jundub said : The war-cry of the Emigrants was 'Abd Allah, and that of the Helpers 'Abd al-Raḥmān.<sup>1948</sup>

(2590) Iyās b. Salamah (b. al-Akwa') said on the authority of his father : We went on an expedition with Abū Bakr (Allah be pleased with him) in the time of the Apostle of Allah (may peace be upon him) and our war-cry was "Put to death," "Put to death."<sup>1949</sup>

(2591) Al-Muhallab b. Abī Ṣufrah said : A man who heard the Prophet (may peace be upon him) say : If the enemy attacks you at night, let your war cry be *Hā Mim*. They will not be helped.<sup>1950</sup>

*Chapter 925*WHAT A MAN SHOULD SAY WHEN HE PROCEEDS ON  
A JOURNEY

(2592) Abū Hurairah said : When the Apostle of Allah (may peace be upon him) proceeded on journey, he would say : O Allah, Thou art the Companion in the journey, and the One Who looks after the family ; O Allah, I seek refuge in Thee from the difficulty of travelling, finding harm when I return, and unhappiness in what I

1947. Allah has mercy on miserable, weak and disabled persons. If a man prays to Allah through them, it is, in all probability, answered by Him. By weaklings are meant the aged, widows, children and disabled persons.

1948. War-cry, is meant to acquaint with the fellow warriors in a battle or fellow travellers during a journey.

1949. This war-cry was adopted by the Muslims to recognise each other in the battle in the darkness of the night. This war-cry also implies a good omen for victory in battle.

1950. These words may be taken from Sūrah xli beginning with the words *Hā Mim*. The other words are in verse 16 of this Sūrah.

see coming to my family and property. O Allah, make the length of this journey short for us, and the journey easy for us.

(2593) Ibn 'Umar said : When the Apostle of Allah (may peace be upon him) sat on his camel to go out on a journey, he said : "Allah is Most Great" three times. Then he said : "Glory be to Him Who has made subservient to us, for we had not the strength for it, and to our Lord do we return.<sup>1951</sup> O Allah, we ask Thee in this journey of ours, uprightness, piety and such deeds as are pleasing to Thee. O Allah, make easy for us this journey of ours and make its length short for us. O Allah, Thou art the Companion in the journey, and the One Who looks after the family and property in our absence." When he returned, he said these words adding : "Returning, repentant, serving and praising our Lord." The Prophet (may peace be upon him) and his armies said : "Allah is Most Great" when they went up to high ground ; and when they descended, they said : "Glory be to Allah." So the prayer was patterned on that.<sup>1952</sup>

### Chapter 926

#### SUPPLICATION TO BE MADE AT THE TIME OF SAYING FAREWELL TO A MAN

(2594) Qaza'ah said : Ibn 'Umar told me : Come, I see off you as the Apostle of Allah (may peace be upon him) saw me off : "I entrust to Allah your religion, what you are responsible for, and your final deeds."

(2595) 'Abd Allah al-Khuṭamī said : When the Prophet (may peace be upon him) wanted to say farewell to an army, he would say : I entrust to Allah your religion, what you are responsible for, and your final deeds.<sup>1953</sup>

### Chapter 927

#### SUPPLICATION TO BE MADE BY A MAN AT THE TIME OF RIDING A BEAST

(2596) 'Alī b. Rabī'ah said : I was present with 'Alī while a beast was brought to him to ride. When he put his foot in the stirrup, he said : "In the name of Allah." Then when he sat on its back, he said : "Praise be to Allah." He then said : "Glory

1951. Qur'ān, xliii. 13.

1952. It is commendable to utter this supplication at the time of commencing the journey. This will bring a traveller blessing and security to his family and property. The Prophet (may peace be upon him) taught the Muslims to remember Allah at all times.

1953. It is commendable to recite this supplication at the time of saying farewell to a man.

be to Him Who has made this subservient to us, for we had not the strength, and to our Lord do we return.”<sup>1954</sup> He then said : “Praise be to Allah (thrice) ; Allah is Most Great (thrice) : glory be to Thee, I have wronged myself, so forgive me, for only Thou forgivest sins.” He then laughed. He was asked : At what did you laugh ? He replied : I saw the Apostle of Allah (may peace be upon him) do as I have done, and laugh after that. I asked : Apostle of Allah, at what are you laughing ? He replied : Your Lord, Most High, is pleased with His servant when he says : “Forgive me my sins.” He knows that no one forgives sins except Him.

### Chapter 928

#### WHAT A MAN SAYS WHEN HE ALIGHTS AT A STATION (ENCAMPS)

(2597) ‘Abd Allah b. ‘Amr said : When the Apostle of Allah (may peace be upon him) was travelling and night came on, he said : O earth, my Lord and your Lord is Allah ; I seek refuge in Allah from your evil, the evil of what you contain, the evil of what has been created in you, and the evil of what creeps upon you ; I seek refuge in Allah from lions, from large black snakes, from other snakes, from scorpions, from the evil of jinn<sup>1955</sup> which inhabit a settlement, and from a parent and his offspring.

### Chapter 929

#### DISAPPROVAL OF TRAVELLING IN THE BEGINNING OF THE NIGHT

(2598) Jābir b. ‘Abd Allah reported the Apostle of Allah (may peace be upon him) as saying : Do not send out your beasts when the sun has set till the darkness of the night prevails, for the devils grope about in the dark when the sun has set till the darkness of the night prevails.<sup>1956</sup>

### Chapter 930

#### ON WHICH DAY TRAVELLING IS COMMENDABLE

(2599) Ka‘b b. Mālik said : It was rarely that the Apostle of Allah (may peace be upon him) set out on a journey on any day but on a Thursday.<sup>1957</sup>

<sup>1954</sup>. Qur’ān, xliii. 13.

<sup>1955</sup>. The other interpretation is that the words *sākin al-balad* (that which inhabits a settlement or land) mean human inhabitants.

<sup>1956</sup>. This shows that the travellers should stop in the evening just after the sunset. When darkness prevails, they should start the journey.

<sup>1957</sup>. The Prophet (may peace be upon him) used to travel generally on a Thursday.

*Chapter 931*

## TRAVELLING IN EARLY HOURS OF THE DAY

(2600) Šakhr al-Ghāmidī reported the Prophet (may peace be upon him) as saying: "O Allah, bless my people in their early mornings." When he sent out a detachment or an army, he sent them at the beginning of the day. Šakhr was a merchant, and he would send off his merchandise at the beginning of the day; and he became rich and had much wealth.

Abū Dāwūd said: He is Šakhr b. Wadā'ah.

*Chapter 932*

## ON A MAN WHO TRAVELS ALONE

(2601) 'Amr b. Shu'aib, on his father's authority, said that his grandfather reported the Apostle of Allah (may peace be upon him) as saying: A single rider is a devil, and a pair of riders are a pair of devils, but three are a company of riders.<sup>19 58</sup>

*Chapter 933*THE COMPANY OF TRAVELLERS SHOULD APPOINT  
ONE OF THEM AS THEIR COMMANDER

(2602) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying: When three are on a journey, they should appoint one of them as their commander.<sup>1959</sup>

(2603) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: When three are on a journey, they should appoint one of them as their commander. Nāfi' said: We said to Abū Salamah: You are our commander.

*Chapter 934*

## CARRYING COPY OF THE QUR'ĀN TO ENEMY TERRITORY

(2604) 'Abd Allah b. 'Umar said: The Apostle of Allah (may peace be upon him)

1958. There is a risk for a lonely traveller during a journey. Two travellers also do not constitute a company. The Prophet (may peace be upon him) recommended that at least three persons should travel together.

1959. It is necessary for the company of the travellers to appoint one of them as their commander or leader to unite them together and to avoid difference of opinion among them.

prohibited to travel with a copy of the Qur'ān to the enemy territory. The narrator Mālik said : (It is) I think lest the enemy should take it.<sup>1960</sup>

### Chapter 935

#### THE NUMBER OF PEOPLE ADVISABLE IN ARMIES, COMPANIONS AND EXPEDITIONS

(2605) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying : The best number of companions is four, the best number in expeditions four hundred, and the best number in armies four thousand ; and twelve thousand will not be overcome through smallness of numbers.<sup>1961</sup>

Abū Dāwūd said : What is correct is that this tradition is *mursal* (i.e. the link of the Companion is missing).

### Chapter 936

#### ON SUMMONING UNBELIEVERS TO ISLAM

(2606) Sulaimān b. Buraidah reported on the authority of his father : When the Apostle of Allah (may peace be upon him) appointed a commander over an army or a detachment he instructed him to fear Allah himself and consider the welfare of the Muslims who were with him. He then said : When you meet the polytheists who are your enemy, summon them to one of three things, and accept whichever of them they are willing to agree to, and refrain from them. Summon them to Islam, and if they agree, accept it from them, and refrain from them. Then summon them to leave their territory, and transfer to the abode of the Emigrants, and tell them that if they do so, they will have the same rights and responsibilities as the Emigrants ; but if they refuse and choose their own abode, tell them that they will be like the desert Arabs who are Muslims, subject to Allah's jurisdiction which applies to the believers, but will have no spoil or booty unless they strive with the Muslims. If they refuse, demand *jizyah* (poll-tax) from them, and if they agree, accept it from them, and refrain from them ; but if they refuse, seek Allah's help and fight with them. When you invade a fortress, and they (its people) offer to capitulate and have the matter referred to

1960. In the version of Ibn Mājah these words have been attributed to the Prophet (may peace be upon him) and not the words of the narrator Mālik.

It is not permissible to carry the copy of the Qur'ān to enemy territory so that it may not be disgraced by the enemy.

1961. The number of people in armies, and in the companies of travellers suggested in this tradition is commendable and not compulsory. The number may vary according to the circumstances. If the number is twelve thousand, the Muslims are not allowed to retreat.



Allah's jurisdiction, do not grant this, for you do not know whether or not you will hit on Allah's jurisdiction regarding them ; but let them capitulate and have the matter referred to your jurisdiction, and make a decision about them later on as you wish.<sup>1962</sup>

Sufyān (b. 'Uyainah) said that 'Alqamah said : I mentioned this tradition to Muqātil b. Ḥabbān, he said : Muslim narrated it to me. Abū Dāwūd said : He is Ibn Haiḍam, narrated from al-Nu'mān b. Muqarrin from the Prophet (may peace be upon him) like the tradition of Sulaimān b. Buraidah.

(2607) Sulaimān b. Buraidah reported on his father's authority : The Prophet (may peace be upon him) said : Fight in the name of Allah, and in the path of Allah, and fight with him who disbelieves in Allah, fight and do not be treacherous and do not be dishonest about booty, and do not deface (in killing) and do not kill a child.<sup>1963</sup>

(2608) Anas b. Mālik reported the Apostle of Allah (may peace be upon him) as saying : Go in Allah's name, trusting in Allah, and adhering to the religion of Allah's Apostle. Do not kill a decrepit old man, or a young infant, or a child, or a woman ; do not be dishonest about booty, but collect your spoils, do right and act well, for Allah loves those who do well.

### Chapter 937

#### BURNING ENEMY TERRITORY

(2609) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) burned the palm-trees of Banū al-Naḍīr and cut (them) down at al-Buwairah.<sup>1964</sup> So Allah, the Exalted, sent down : "The palm-trees you cut down or left."<sup>1965</sup>

1962. If the Muslims attack a fortress where the unbelievers are confined, and they capitulate only referring to the jurisdiction of Allah, without mentioning any terms and conditions, the Muslims should not accept it, for they cannot know for certain what will be the jurisdiction of Allah regarding them. On the contrary, the Prophet (may peace be upon him) knew it through Divine revelation. He could know Allah's decision about them. The Muslims, therefore, should capitulate on clear terms and conditions defined by them. This may be killing, exile, *jizyah*, or protection.

1963. Women, aged, children and other weak persons who are not fighting should not be killed in battle.

1964. The name of a place where the palm-trees of Banū al-Naḍīr were growing.

1965. Qur'ān, lix. 5.

This tradition provides justification for burning the enemy territory in a battle, especially their war equipment. This view is held by the majority of scholars, but al-Auzā'i and Abū Ṭhawr think that conflagration is disapproved. They contend that Abū Bakr advised his armies not to burn and perish the territory and equipment of the enemy. He might have thought that the territory and equipment would be beneficial to the Muslims. In fact, this depends on expediency and demands of the situation. Sometimes it is permissible and sometimes not.

(2610) Usāmah said that the Apostle of Allah (may peace be upon him) enjoined upon him to attack Ubnā in the morning and burn the place.<sup>1966</sup>

(2611) Abū Mishar was told about Ubnā. He said : We know it better. This is Yubnā of Palestine.

### Chapter 938

#### ON SENDING SPIES

(2612) Anas said : The Prophet (may peace be upon him) sent Busaisah as a spy to see what the caravan of Abū Sufyān was doing.

### Chapter 939

#### ON A TRAVELLER WHO EATS DATES FROM TREES WHEN HE PASSES THEM AND DRINKS MILK OF ANIMALS WHEN HE PASSES THEM

(2613) Samurah b. Jundub reported the Prophet of Allah (may peace be upon him) as saying : When one of you comes to the cattle, he should seek permission of their master if he is there ; if he permits, he should milk (the animals) and drink. If he is not there, he should call three times. If he responds, he should seek his permission ; otherwise, he may milk (the animals) and drink, but should not carry (with him).<sup>1967</sup>

(2614) 'Abbād b. Shurahbīl said : I suffered from drought ; so I entered a garden of Medina, and rubbed an ear-corn. I ate and carried<sup>1968</sup> in my garment. Then its master came, he beat me and took my garment. He came to the Apostle of Allah (may peace be upon him) who said to him : You did not teach him if he was ignorant ; and you did not feed him if he was hungry. He ordered him, so he returned my garment to me, and gave me one or half a waṣq (sixty or thirty ṣā's) of corn.

(2615) Abū Bishr said : I heard 'Abbād b. Shurahbīl, a man of us from Banū Ghubār. He narrated the rest of the tradition to the same effect.

1966. The name of a place in Palestine between 'Asqālān and Ramlah.

1967. Al-Khaṭṭābī observes that this permission has been accorded to a man who is helpless and dying of hunger or thirst. This cannot be generalised. The majority of scholars hold that if a man takes the property of another Muslim without his permission, he should pay him its price when he is able to do so. A group of scholars holds that it is a general permission.

1968. In the state of severe hunger and drought it is permissible to eat something from the garden ; but a person should not take it with him. This also shows that if a man does not know the Islamic teaching about a certain question, others should tell him.

*Chapter 940*

**THE VIEW THAT A MAN MAY EAT WHAT HAS FALLEN  
FROM THE TREE**

(2616) The uncle of Abū Rāfi' b. 'Amr al-Ghifārī said : I was a boy. I used to throw stones at the palm-trees of the *Anṣār*. So I was brought to the Prophet (may peace be upon him) who said : O boy, why do you throw stones at the palm-trees ? I said : I eat (dates). He said : Do not throw stones at the palm trees, but eat what falls beneath them. He then wiped his head and said : O Allah, fill his belly.<sup>1969</sup>

*Chapter 941*

**THE VIEW THAT ONE SHOULD NOT MILK ANIMALS  
WITHOUT PERMISSION OF THE MASTER**

(2617) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon him) as saying : One should not milk the cattle of anyone without his permission. Does one of you like that anyone approaches his corn cell and its storage is broken, and then the corn scatters away ? Likewise, the teats of their cattle store their food. Therefore none of you should milk the cattle of anyone without his permission.

*Chapter 942*

**ON OBEDIENCE**

(2618) Ibn Juraij said : "O ye who believe, obey Allah, and obey the Apostle and those charged with authority among you."<sup>1970</sup> This verse was revealed about 'Abd Allah b. Qais b. 'Adī whom the Prophet (may peace be upon him) sent along with a detachment. Ya'la narrated it to me from Sa'īd b. Jubair on the authority of Ibn 'Abbās.

(2619) 'Alī (Allah be pleased with him) said : The Apostle of Allah (may peace be upon him) sent an army and appointed a man as a commander for them, and he commanded them to listen to him and obey. He kindled fire and ordered them to jump into it. A group refused to enter into it and said : We escaped from the fire. A group

1969. This tradition indicates that the fruit already fallen from the tree may be taken without permission. But one should not throw stones at the trees.

1970. Qur'ān, iv. 59.

intended to enter into it. When the Prophet (may peace be upon him) was informed about it, he said : Had they entered into it, they would have remained into it. There is no obedience in matters involving disobedience to Allah ; obedience is in matters which are good and universally recognised.<sup>1971</sup>

(2620) 'Abd Allah (b. Mas'ūd) reported the Apostle of Allah (may peace be upon him) as saying : Listening and obedience are binding on a Muslim, whether he likes or dislikes, so long as he is not commanded for disobedience (to Allah) ; if he is commanded for disobedience (to Allah), no listening and obedience are binding (on him).

(2621) 'Uqbah b. Mālīk, who belonged to the tribe of Bishr b. 'Āṣim, said : The Prophet (may peace be upon him) sent a detachment. I gave a sword to a man from among them. When he came back, he said : Would that you saw us how the Apostle of Allah (may peace be upon him) rebuked us, saying : When I send out a man who does not fulfil my command, are you unable to appoint in his place one who will fulfil my command ?<sup>1972</sup>

### Chapter 943

#### COMMAND OF KEEPING ARMY CLOSE TOGETHER

(2622) Abū Tha'labah al-Khushanī said : When the people encamped, (the narrator 'Amr b. 'Uthmān al-Himṣī) said : When the Apostle of Allah (may peace be upon him) encamped, the people scattered in the glens and *wādis*. The Apostle of Allah (may peace be upon him) said : Your scattering in these glens and *wādis* is only of the devil. They afterwards kept close together when they encamped to such an extent that it used to be said that if a cloth were spread over them, it would cover them all.<sup>1973</sup>

(2623) Mu'ādh b. Anas al-Juhānī said : I fought along with the Prophet (may peace be upon him) in such and such battles. The people occupied much space and encroached on the road. The Prophet (may peace be upon him) sent an announcer to announce among the people : Those who occupy much space or encroach on the road

1971. This tradition shows that the Muslims should obey men in authority in those matters which are good and permissible by Allah. They should not obey them in matters that are prohibited by Allah.

1972. This man killed a person who had embraced Islam and proclaimed his faith. This was disobedience to the command of the Prophet (may peace be upon him). At the time of sending the army, he used to give instruction not to kill a person who accepts Islam. When the fact was reported to the Prophet (may peace be upon him), he became angry and rebuked him.

1973. This shows that the people should keep close together in an assembly. They should not sit in a scattered way.

will not be credited with *jihad*.<sup>1974</sup>

(2624) Sahl b. Mu'adh reported on the authority of his father: We fought along with the Prophet of Allah (may peace be upon him). The rest of the tradition is to the same effect.

### Chapter 944

#### DESIRE TO MEET ENEMY IS DISAPPROVED

(2625) Sālim Abū al-Naḍr, client of 'Umar b. 'Ubaid Allah, that is, Ibn Ma'mar who (Sālim) was his ('Umar's) secretary, reported: When 'Abd Allah b. Abī Awfā went out to the Ḥarūrīyyah (Khawārij),<sup>1975</sup> he wrote to him ('Umar b. 'Ubaid Allah): The Apostle of Allah (may peace be upon him) said on a certain day when he was fighting with the enemy: O people, do not desire to meet the enemy; ask Allah, Most High, for health and security. When you meet them (the enemy), have patience and endurance; you should know that Paradise is under the shade of swords. He then said: O Allah, Who sends down the Book, makes the clouds to travel and routes the confederates,<sup>1976</sup> rout them and give us victory over them.

### Chapter 945

#### SUPPLICATION AT THE TIME OF MEETING ENEMY

(2626) Anas b. Mālik said: When the Apostle of Allah (may peace be upon him) went on an expedition, he said: O Allah, Thou art my aider and helper; by Thee I move; by Thee I attack, and by Thee I fight.

### Chapter 946

#### TO SUMMON POLYTHEISTS TO ISLAM BEFORE BATTLE

(2627) Ibn 'Awn said: I wrote to Nāfi' asking him about summoning the polytheists (to Islam) at the time of fighting. So he wrote to me: This was in the early

1974. While staying or encamping on the roadside the people should not intercept the way. Similarly, when the people sit together in an assembly, one should not occupy more place but accommodate others too.

1975. The reference is to the Khawārij. A sect of them was attributed to Ḥarūrāh, a place near Kūfah.

1976. The reference is to the siege of Medina in 5 A.H. when a trench was dug as a protection.



days of Islam. The Prophet of Allah (may peace be upon him) attacked Banū al-Muṣṭaliq while they were inattentive, and their cattle were drinking water. So their fighters were killed and the survivors (i.e. women and children) were taken prisoners. On that day Juwairiyyah, daughter of al-Ḥārith, was obtained. 'Abd Allah narrated this to me ; he was in that army.<sup>1977</sup>

Abū Dāwūd said : This is a good tradition narrated by Ibn 'Awn from Nāfi', and no one shared him in narrating it.

(2628) Anas said : The Prophet (may peace be upon him) used to attack at the time of the dawn prayer, and hear. If he heard a call to prayer, he would refrain from them ; otherwise would attack (them).<sup>1978</sup>

(2629) Ibn 'Iṣām al-Muzani reported on the authority of his father : The Apostle of Allah (may peace be upon him) sent us in a detachment and said (to us) : If you see a mosque or hear a *mu'adhdhin* (calling to prayer), do not kill anyone.

### Chapter 947

#### ON WAR TRICKS

(2630) Jābir reported the Apostle of Allah (may peace be upon him) as saying : War is deception.<sup>1979</sup>

(2631) Ka'b b. Mālik reported on the authority of his father : When the Prophet (may peace be upon him) intended to go on an expedition, he always pretended to be going somewhere else,<sup>1980</sup> and he would say : War is deception.

Abū Dāwūd said : Only Ma'mar has transmitted this tradition. By this he refers to his statement "War is deception" through this chain of narrators. He narrates it from the tradition of 'Amr b. Dīnār from Jābir, and from the tradition of Ma'mar from Ḥammām b. Munabbih on the authority of Abū Hurairah.

1977. It is disputed amongst scholars whether Muslims should call the unbelievers to Islam before fighting. A view says that it is not necessary ; the other view goes that Muslims should call them to Islam. The third view is that the call to Islam is necessary if the call did not reach them before. In case it reached them before, it is then not necessary, but only commendable (*'Awn al-Ma'būd*, II, 346-47).

1978. By hearing the call to prayer he would believe that there lived Muslims and not unbelievers. Hence he waited to hear the call to prayer.

1979. It is not sufficient to fight bravely in the battle. One should also know the war tricks to defeat the enemy. Telling a lie and other tricks are permissible in a battle, but violation of an agreement is not allowed.

1980. He used to hide the place of expedition from enemy.

*Chapter 948*

## TO ATTACK ENEMY AT NIGHT

(2632) Ayās b. Salamah reported on the authority of his father : The Apostle of Allah (may peace be upon him) appointed Abū Bakr our commander and we fought with some people who were polytheists, and we attacked them at night, killing them. Our war-cry that night was "put to death ; put to death." Salamah said : I killed that night with my hand polytheists belonging to seven houses.

*Chapter 949*

## ON KEEPING OF THE COMMANDER TO THE REAR

(2633) Jābir b. 'Abd Allah said : The Apostle of Allah (may peace be upon him) used to keep to the rear when travelling and urge on the weak. He would take someone up behind him and make supplication for them all.<sup>1981</sup>

*Chapter 950*

## ON WHICH BASIS POLYTHEISTS SHOULD BE FOUGHT

(2634) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : I am commanded to fight with men till they testify that there is no god but Allah ; when they do that, they will keep their life and their property safe from me, except what is due to them<sup>1982</sup> (i.e. life and property) ; and their reckoning will be at Allah's hands.

(2635) Anas reported the Apostle of Allah (may peace be upon him) as saying : I am commanded to fight with men till they testify that there is no god but Allah, and that Muḥammad is His servant and His Apostle, face our *qiblah* (direction of prayer), eat what we slaughter, and pray like us. When they do that, their life and property are unlawful for us except what is due to them. They will have the same rights as the

1981. The Prophet (may peace be upon him) used to keep to the rear to look after the weak, aged, wounded and the patients.

1982. Muslims are allowed to fight with the unbelievers until they utter the credo of Islam. If an unbeliever pronounces the credo of Islam, and declares himself a Muslim, he should not be killed in *jihād*, except due to the rights of Allah or of the people. For instance, if a man turns apostate, he will be killed : or he murders another man, he will then be murdered in retaliation.

Muslims have, and have the same responsibilities as the Muslims have.<sup>1983</sup>

(2636) Anas b. Mālik reported the Apostle of Allah (may peace be upon him) as saying: I am commanded to fight with the polytheists. The rest of the tradition is to the same effect as mentioned above.

(2637) Usāmah b. Zaid said: The Apostle of Allah (may peace be upon him) sent us with a detachment to al-Ḥuruqāt.<sup>1984</sup> They learnt about us and fled away. But we found a man, and when we attacked him, he uttered "There is no god but Allah"; still we struck him till we killed him. When I mentioned it to the Prophet (may peace be upon him), he said: Who will save you from "There is no god but Allah" on the Day of Judgment? I said: Apostle of Allah, he uttered it for fear of the weapon. He said: Did you tear his heart so that you learnt whether he actually uttered it for this or not. Who will support you against "There is no god but Allah?" He kept on repeating this till I wished I would have embraced Islam on that day.<sup>1985</sup>

(2638) Al-Miqdād b. al-Aswad reported that he said: Apostle of Allah, tell me if I meet a man who is a disbeliever, and he fights with me, and cuts off one hand of mine with the sword, and then takes refuge by a tree and says: I embraced Islam for Allah's sake. Should I kill him, Apostle of Allah, after he uttered it (the credo of Islam)? The Apostle of Allah (may peace be upon him) said: Do not kill him. I said: Apostle of Allah, he cut off my hand. The Apostle of Allah (may peace be upon him) said: Do not kill him. If you kill him, he will become like you before you kill him, and you will become like him before he uttered this credo which he has uttered now.<sup>1986</sup>

### Chapter 951

#### PROHIBITION FROM KILLING A MAN WHO SEEKS PROTECTION BY MAKING A PROSTRATION

(2639) Jarīr b. 'Abd Allah said: The Apostle of Allah (may peace be upon him)

1983. This tradition defines a Muslim. If a person believes in the unity of Allah and in the prophethood of Muḥammad (may peace be upon him), and observes the duties of Islam, there is no reason to fight with him.

1984. The name of the tribes of Juhainah.

1985. This shows that Usāmah committed a grave mistake by killing a man who already uttered the credo of Islam. If a person declares himself to be a Muslim, he will be considered legally to be a Muslim. What rests at his heart is known to Allah.

1986. The killing of the unbeliever was lawful when he did not embrace Islam. When he embraced it, it was unlawful to kill him. His killer would be murdered in retaliation.

Although sincere belief is necessary in the eyes of Allah, this cannot be known to the people. Hence the obvious declaration of a non-Muslim will be recognised.

sent an expedition to Khath'am. Some people sought protection by having recourse to prostration, and were hastily killed.<sup>1987</sup> When the Prophet (may peace be upon him) heard that, he ordered half the blood-wit to be paid for them, saying: I am not responsible for any Muslim who stays among polytheists. They asked: Why, Apostle of Allah? He said: Their fires should not be visible to one another.<sup>1988</sup>

Abū Dāwūd said: Hushaim, Ma'mar, Khālid b. al-Wāsiṭ and a group of narrators have also narrated it, but did not mention Jarīr.

### Chapter 952

#### FLYING FROM ENEMY IN A BATTLE

(2640) Ibn 'Abbās said: When the verse "If there are twenty amongst you, patient and persevering, they will vanquish two hundred"<sup>1989</sup> was revealed, it was heavy and troublesome for the Muslims when Allah prescribed for them that one (fighting Muslim) should not fly from ten (fighting non-Muslims). Then a light commandment was revealed, saying: "For the present Allah hath lightened your (task)." The narrator Abū Tawbah recited the verse to "they will vanquish two hundred."<sup>1990</sup> When Allah lightened the number, patience and perseverance also decreased according to the number lightened from them.<sup>1991</sup>

(2641) 'Abd Allah b. 'Umar said that he was sent with a detachment of the Apostle of Allah (may peace be upon him). The people wheeled round in flight. He said: I was one of those who wheeled round in flight. When we stopped, we said (i.e.

1987. Some members of Khath'am tribe who were Muslims resorted to prostration in prayer to Allah to prove themselves Muslims. But the Muslims hastened to kill them: The Prophet (may peace be upon him) did not like this action of theirs and ordered to pay the blood-wit for them. This shows that the Muslim army should be most careful in killing people during fighting.

1988. This has been interpreted in a threefold way. First, the same law cannot be applied to both of them equally. Muslims and non-Muslims are two different communities. Secondly, the enemy territory belonging to the unbelievers and the Muslim territory are quite distinct from each other. It is, therefore, not permissible for Muslims to live in the abode of the unbelievers, so that when they kindle their fire, it is visible to them. Thirdly, a Muslim should not resemble a non-Muslim in shape and manners.

Al-Tirmidhī has narrated this tradition as *mursal*, i.e. the link of the Companion Jarīr is missing. He says that this is more correct.

1989. Qur'ān, viii. 65.

1990. Qur'ān, viii. 66.

1991. Earlier the Muslims were required to fight with the unbelievers even if their number be ten times more than the number of Muslims. They were not allowed to fly from the battlefield in this situation. But the Muslims could not tolerate this and it became burdensome for them. Hence the ratio was decreased. It now became one to two instead of one to ten. The Muslims now are not allowed to fly from the battleground if the number of the unbelievers is double their number.

thought) : How should we do ? We have run away from the battlefield and deserve Allah's wrath. They we said (thought) : Let us enter Medina, stay there, and go there while no one sees us. So we entered (Medina) and thought : If we present ourselves before the Apostle of Allah (may peace be upon him), and if there is a chance of repentance for us, we shall stay ; if there is something else, we shall go away. So we sat down (waiting) for the Apostle of Allah (may peace be upon him) before the dawn prayer. When he came out, we stood up to him and said : We are the ones who have fled. He turned to us and said : No, you are the ones who return to fight after wheeling away. We then approached and kissed his hand, and he said : I am the main body of the Muslims.<sup>1992</sup>

(2642) Abū Sa'īd said : The verse "If any do turn his back to them on such a day"<sup>1993</sup> was revealed on the day of the Battle of Badr.

### Chapter 953

#### ON A CAPTIVE BEING COMPELLED ON DISBELIEF

(2643) Khabbāb said : We came to the Apostle of Allah (may peace be upon him) while he was reclining on an outer garment in the shade of the Ka'bah. Complaining to him we said : Do you not ask Allah for help for us ? And do you not pray to Allah for us ? He sat aright turning red in his face and said : A man before you (i.e. in the ancient times) was caught, and a pit was dug for him in the earth, and then a saw was brought, placed on his head, and it was broken into two pieces ; but that did not turn him away from his religion. They were combed with iron combs in flesh and sinews above the bones. Even that did not turn them away from their religion. I swear by Allah, Allah will accomplish this affair until a rider will travel between Ṣan'ā' and Ḥaḍramaut, and he will not fear anyone except Allah, Most High, (nor will he fear the attack of) a wolf on his sheep ; but you are making haste.<sup>1994</sup>

1992. While returning from fighting 'Abd Allah b. 'Umar and his fellow fighters thought they had committed a serious sin by turning away in flight. The Prophet (may peace be upon him) consoled them and said that to withdraw to join one's unit stationed in the rear was not flying from the enemy. Cf. Qur'ān, viii. 16.

1993. Qur'ān, viii. 16.

1994. Khabbāb complained to the Prophet (may peace be upon him) against the domination of the disbelievers and requested him to pray to Allah for the victory of the Muslims. But he recalled the perseverance of the Muslims of old who did not lose heart from torture and hardships. In the long run Allah bestowed victory on them. He thus advised them to have patience and endurance for some time, as that was a time of their test and trial.



*Chapter 954*ON A MUSLIM WHO WORKS AS A SPY FOR  
UNBELIEVERS

(2644) 'Alī said : The Apostle of Allah (may peace be upon him) sent me, al-Zubair and al-Miqdād, and said : Go till you come to the meadow of Khākh,<sup>1995</sup> for there is a woman there travelling on a camel who has a letter which you must take from her. We went off racing one another on our horses till we came to the meadow and when we found the woman, we said : Bring out the letter. She said : I have no letter. I said : You must bring out the letter else we strip off your clothes. She then brought it out from her tresses, and we took it to the Prophet (may peace be upon him). It was addressed from Ḥāṭib b. Abī Balta'ah to some of the polytheists (in Mecca) giving them some information about the Apostle of Allah (may peace be upon him). He asked : What is this, Ḥāṭib ? He replied : Apostle of Allah, do not be hasty with me. I have been a man attached as an ally to the Quraish and am not one of them, while those of the Quraish (i.e. the emigrants) have relationship with them by which they guard their family in Mecca. As I did not have that advantage, I wanted to give them some help for which they might guard my relations. I swear by Allah, I am not guilty of unbelief or apostasy (from my religion). The Apostle of Allah (may peace be upon him) said : He has told you the truth. 'Umar said : Let me cut off this hypocrite's head. The Apostle of Allah (may peace be upon him) said : He was present at Badr, and what do you know, perhaps Allah might look with pity on those who were present at Badr ? And said : Do what you wish, I have forgiven you.<sup>1996</sup>

(2645) 'Alī said : Ḥāṭib went and wrote to the people of Mecca that Muḥammad (may peace be upon him) is going to proceed to them. This version has : She said : I have no letter. We made her camel kneel down, but we did not find any letter with her. 'Alī said : By Him in Whose name oath is taken, I shall kill you or you should bring out the letter. He then narrated the rest of the tradition.

*Chapter 955*

## ON SPYING BY A PROTECTED MAN

(2646) Furāt b. Ḥayyān said that the Apostle of Allah (may peace be upon him)

1995. This place was on the way to Medina from Mecca at a distance of twelve miles.

1996. This shows that working as a spy and supplying information of one's own people is forbidden. Ḥāṭib's was an exceptional case. The Prophet (may peace be upon him) forgave him, for he spoke the truth and he was sincere in his intention.

commanded to kill him : he was a spy of Abū Sufyān and an ally of a man of the *Anṣār*. He passed a circle of the *Anṣār* and said : I am a Muslim. A man from the *Anṣār* said, Apostle of Allah, he is saying that he is a Muslim. The Apostle of Allah (may peace be upon him) said : There are people among you in whose faith we trust. Furāt b. Ḥayyān is one of them.<sup>1997</sup>

### Chapter 956

#### ON A SPY WHO GOT PROTECTION IN MUSLIM TERRITORY

(2647) Ibn Salamah b. al-Akwā' reported on the authority of his father : A spy of the polytheists came to the Prophet (may peace be upon him) when he was on a journey. He sat near his Companions and then slipped away. The Prophet (may peace be upon him) said : Look for him and kill him. He said : I raced to him and killed him. I took his belongings which he (the Prophet) gave me.<sup>1998</sup>

(2648) Salamah (b. al-Akwa') said : I went on an expedition with the Apostle of Allah (may peace be upon him) against Hawāzin, and while we were having a meal in the forenoon, and most of our people were on foot, and some of us were weak, a man came on a red camel. He took out a rope from the loin of the camel and tied his camel with it, and began to take meal with the people. When he saw the weak condition of their people and lack of mounts, he went out in a hurry to his camel, untied it, made it kneel down, and sat on it, and went off galloping it. A man of the tribe of Aslam followed him on a brown she-camel which was the best of those of the people. I hastened out and I found him while the head of the she-camel was near the paddock of the camel, and I was near the paddock of the she-camel. I then went ahead till I reached near the paddock of the camel. I then went ahead till I caught the camel's nose-string. I made it kneel. When it placed its knee on the ground, I drew my sword, and struck the man on his head, and it fell down. I then brought the camel leading it with (its equipment) on it. The Apostle of Allah (may peace be upon him) came forward facing me and asked : Who killed the man ? They (the people) said : Salamah b. al-Akwa'. He said : He gets all his spoil.

Hārūn said : This is Hāshim's version.

1997. This tradition indicates that a spy who is a Muslim should not be killed. If a non-Muslim is a spy, or a protected man is working as a spy, he should be killed.

1998. If an unbeliever comes to the Muslim territory after taking protection from them, and later on it is proved that he is a spy, he should be killed.

*Chapter 957***AT WHAT TIME IS IT COMMENDABLE TO FIGHT  
WITH ENEMY**

(2649) Al-Nu'mān b. Muqarrin said : I was present at fighting along with the Apostle of Allah (may peace be upon him), and when he did not fight at the beginning of the day, he waited till the sun had passed the meridian, the winds blew, and help came down.<sup>1999</sup>

*Chapter 958***TO KEEP SILENCE AT THE TIME OF FIGHTING**

(2650) Qais b. 'Abbād said : The Companions of the Prophet (may peace be upon him) disliked shouting while fighting.<sup>2000</sup>

(2651) A similar tradition has also been transmitted by Abū Bardah on the authority of his father from the Prophet (may peace be upon him).

*Chapter 959***ON A MAN WHO COMES DOWN FROM HIS MOUNT  
WHILE FIGHTING**

(2652) Al-Barā' said : When the Prophet (may peace be upon him) fought the polytheists in the battle of Hunain, they (the Muslims) retreated, he (the Prophet) came down from his mule, and walked on foot.<sup>2001</sup>

*Chapter 960***A MAN'S PRIDE WHEN FIGHTING**

(2653) Jābir b. 'Atik reported the Prophet (may peace be upon him) as saying : There is jealousy which Allah loves and jealousy which Allah hates. That which Allah

1999. Muslims do not solely depend on weapons and man power. They of course make preparation for war as much as possible, but depend on the help of Allah for their victory. The Prophet (may peace be upon him) knew the exact moments when Allah's succour comes down. He, therefore, used to wait for those moments to start fighting.

2000. This relates to the war tactics not to shout while fighting. Since the fighters are to conceal themselves from the enemy, and not to reveal their actual strength to them, it is better for them to keep silence.

2001. It is permissible to come down from the mount while fighting if situation demands

loves is jealousy regarding a matter of doubt,<sup>2002</sup> and that which Allah hates is jealousy regarding something which is not doubtful.<sup>2003</sup> There is pride which Allah hates and pride which Allah loves. That which Allah loves is a man's pride when fighting<sup>2004</sup> and when giving *ṣadaqah*<sup>2005</sup> and that which Allah hates is pride shown by oppression.<sup>2006</sup> The narrator Mūsā said : "by boasting."<sup>2007</sup>

### Chapter 961

#### ON A MAN WHO IS TAKEN PRISONER

(2654) Abū Hurairah said : The Prophet (may peace be upon him) sent ten persons (on an expedition) and appointed 'Āṣim b. Thābit their commander. About one hundred men of Hudhail who were archers came out to (attack) them. When 'Āṣim felt their presence, they took cover in a hillock. They said to them : Come down and surrender, and we make a covenant and pact with you that we shall not kill any of you. 'Āṣim said : I do not come to the protection of a disbeliever. Then they shot them with arrows, and killed 'Āṣim in a company of seven persons. The other three persons came down to their covenant and pact. They were Khubaib, Zaid b. al-Jathnah and another man.<sup>2008</sup> When they overpowered them, they untied their bow-strings and tied them with them. The third person said : This is the first treachery. I swear by Allah, I shall not accompany you. In them (my companions) is an example for me. They pulled him, but he refused to accompany them : so they killed him. Khubaib remained their captive until they agreed to kill him. He asked for a razor to shave his pubes. When they brought him outside to kill him, Khubaib said to them ; Let me offer two *rak'ahs* of prayer. He then said : I swear by Allah, if you did not

2002. This means that a man becomes jealous, indeed angry, when he finds unlawful intercourse with his relations such as mother, sister, wife and others. This sort of jealousy is liked by Allah. A tradition says : There is none more jealous than Allah. Hence He has forbidden adultery.

2003. Matters which are not doubtful mean clear injunctions regarding marriage with women allowed by Allah. If a man hates or becomes jealous of lawful marriage of his relations, it is disliked by Allah.

2004. Pride while fighting aims at giving awe and terror to the enemy and encourages the fellow-fighters.

2005. This means to give alms with pleasure of heart and not to care for which he spent. This aims at further increase in *ṣadaqah*.

2006. This means that a man describes to others with pride that he murdered so-and-so and plundered his property.

2007. This means that a man takes pride in his ancestors, tribe, lineage, property, status, bravery and generosity. Allah likes these qualities, but hates boasting of them ('*Awn al-Ma'būd*, III, 4).

2008. His name was 'Abd Allah b. Tāriq.

think that I did this out of fear, I would have increased (the number of *rak'ahs*).

(2655) Al-Zuhri said : This tradition has been transmitted to me by 'Amr b. Abū Sufyān b. Usaid b. Jāriyat al-Thaqafi, who was an ally of Banū Zuhrah and a companion of Abū Hurairah. He then narrated the tradition.

### Chapter 962

#### ON LYING IN AMBUSH

(2656) Al-Barā' b. 'Āzib said : On the day of the battle of Uhud the Apostle of Allah (may peace be upon him) appointed 'Abd Allah b. Jubair commander of the archers who were fifty (in number). He said : If you see that the birds are snatching at us, do not move from this place of yours until I send for you ; and if you see that we defeated the people (the enemy), and trod them down, do not move until I send for you. Allah then defeated them. He (the narrator) said : I swear by Allah, I saw women ascending the mountain. The companions of 'Abd Allah b. Jubair said : Booty, O people, booty ! Your companions vanquished, for what are you waiting ? 'Abd Allah b. Jubair said : Have you forgotten what the Apostle of Allah (may peace be upon him) had told you ? They said : We swear by Allah, we shall come to the people, and get the booty. So they came to them. Their faces were turned and they came defeated.<sup>2009</sup>

### Chapter 963

#### TO DRAW UP IN ROWS

(2657) Abū Usaid reported the Apostle of Allah (may peace be upon him) as saying to us at the battle of Badr when we drew up in rows : When they come near you, shoot arrows at them, but do not use all your arrows.<sup>2010</sup>

### Chapter 964

#### TO DRAW SWORDS WHEN FIGHTING

(2658) Mālik b. Ḥamzah b. Abū Usaid al-Sā'idī reported from his father on the authority of his grandfather : The Prophet (may peace be upon him) said at the

2009. The place where the Prophet (may peace be upon him) appointed the contingent of fifty persons was strategical. They were defeated for two reasons : first, they disobeyed the Prophet (may peace be upon him), and, secondly, they coveted worldly gain.

2010. This means that the archers should not shoot arrows at the enemy when they are far away. But they should shoot when they are near.

This tradition also indicates that the warriors should fight by drawing up in rows.



battle of Badr : When they come near you shoot arrows at them ; and do not draw swords at them until they come near you.<sup>2011</sup>

### Chapter 965

#### SINGLE COMBAT

(2659) 'All said : (At the battle of Badr) 'Utbah b. Rabī'ah came forward followed by his son and his brother and cried out : Who will be engaged in single combat ? Some young men of the Helpers responded to his call. He asked : Who are you ? They told him. He said : We do not want you ; we, in fact, want only our cousins. The Prophet (may peace be upon him) said : Get up Ḥamzah get up 'All ; get up 'Ubaidah b. al-Ḥārith. Ḥamzah went forward to 'Utbah, I went forward to Shaibah ; and after two blows had been exchanged between 'Ubaidah and al-Walīd, they wounded one another severely ; so we turned against al-Walīd and killed him, and we carried 'Ubaidah away.<sup>2012</sup>

### Chapter 966

#### PROHIBITION OF MUTILATION

(2660) 'Abd Allah (b. Mas'ūd) reported the Apostle of Allah (may peace be upon him) as saying : The most merciful of the people in respect of killing are believers (in Allah).<sup>2013</sup>

(2661) Al-Hayyāj b. 'Imrān (b. Ḥusain) reported that a slave of 'Imrān ran away. He took a vow to Allah that if he overpowers him, he will cut off his head. He then sent me (to Samurah b. Jundub) to ask him about this question for him. I came to Samurah b. Jundub and asked him. He said : The Apostle of Allah (may peace be upon him) used to exhort us to give alms (*ṣadaqah*) and forbid us to mutilate (a slain). I then came to 'Imrān b. Ḥusain and asked him. He said : The Apostle of Allah (may peace be upon him) used to exhort us to give alms (*ṣadaqah*) and forbid us to mutilate (a slain).

2011. If a warrior draws his sword when the enemy is far away, he cannot attack him, or may do harm to himself and his army. Hence, one should draw the sword only when the enemy comes near.

2012. This shows the permissibility of a single combat in a battle. There is no difference of opinion if the Muslim ruler allows. It is disputed when the ruler does not allow. A body has allowed it, and this is the view of Mālik and al-Shāfi'ī.

2013. Muslims are more merciful and soft-hearted than unbelievers. They do not persecute and torture a man when they kill him. While killing a man in the battle it is forbidden to deface or mutilate him by cutting his ear, nose and sexual organ.

*Chapter 967*

## ON KILLING WOMEN

(2662) 'Abd Allah (b. Mas'ūd) said: A woman was found slain in one of the battles of the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) forbade to kill women and children.<sup>2014</sup>

(2663) Rabāḥ b. Rabi' said: When we were with the Apostle of Allah (may peace be upon him) on an expedition, he saw some people collected together over something and sent a man and said: See, what are these people collected around? He then came and said: They are round a woman who has been killed. He said: This is not one with whom fighting should have taken place. Khālid b. al-Walīd was in charge of the van; so he sent a man and said: Tell Khālid not to kill a woman or a hired servant.<sup>2015</sup>

(2664) Samurah b. Jundub reported the Apostle of Allah (may peace be upon him) as saying: Kill the old men who are polytheists, but spare their children.<sup>2016</sup>

(2665) 'Ā'ishah said: No woman of Banū Qurayḥah was killed except one. She was with me, talking and laughing on her back and belly (extremely), while the Apostle of Allah (may peace be upon him) was killing her people with the swords. Suddenly a man called her name: Where is so-and-so? She said: I. I asked: What is the matter with you? She said: I did a new act.<sup>2017</sup> She said: The man took her and beheaded her. She said: I will not forget that she was laughing extremely although she knew that she would be killed.

(2666) Al-Ṣa'b b. Jaththāmah said that he asked the Apostle of Allah (may peace be upon him) about the polytheists whose settlements were attacked at night when some of their offspring and women were smitten. The Prophet (may peace be upon him) said: They are of them. 'Amr b. Dīnār used to say: They are regarded in the same way as their parents.<sup>2018</sup>

2014. It is forbidden to kill a decrepit old man, or a young infant or a woman in the battle with the infidels.

2015. A woman can be killed if she is fighting in the battle. But it is forbidden to kill her if she is not fighting. Similarly, a hired servant who has no weapons with him should not be killed.

2016. A decrepit old man should not be killed except in case he is taking part in fighting or giving suggestions about war tactics. The old men who are strong and vigorously fighting in the battle can be killed.

2017. She used to abuse the Prophet (may peace be upon him). Hence she was killed.

2018. This tradition allows to kill women and children of the infidels in the battle. The other traditions indicate that it is prohibited to kill women and children in the battle. These contradictory traditions have been reconciled by saying that the tradition of al-Ṣa'b b. Jaththāmah has been abrogated. The other interpretation is that it is allowable to kill women and children when the settlements of the infidels are attacked at night, as they cannot be distinguished from the fighting men in the dark.

Al-Zuhri said : Thereafter the Apostle of Allah (may peace be upon him) prohibited to kill women and children.<sup>2019</sup>

### Chapter 968

#### ABOMINATION OF BURNING ENEMY WITH FIRE

(2667) Ḥamzat al-Aslamī said that the Apostle of Allah (may peace be upon him) appointed him commander over a detachment. He said : I went out along with it. He (the Prophet) said : If you find so-and-so, burn him with the fire. I then turned away, and he called me. So I returned to him, and he said : If you find so-and-so, kill him, and do not burn him, for no one punishes with fire except the Lord of the fire.<sup>2020</sup>

(2668) Abū Hurairah said : The Apostle of Allah (may peace be upon him) sent us along with a contingent, and said : If you find so-and-so. He then narrated the rest of the tradition to the same effect.

(2669) 'Abd Allah (b. Mas'ūd) said : We were with the Apostle of Allah (may peace be upon him) during a journey. He went to ease himself. We saw a bird with her two young ones and we captured her young ones. The bird came and began to spread its wings. The Apostle of Allah (may peace be upon him) came and said : Who grieved this for its young ones ? Return its young ones to it. He also saw an ant village that we had burnt. He asked : Who has burnt this ? We replied : We. He said : It is not proper to punish with fire except the Lord of fire.<sup>2021</sup>

### Chapter 969

#### ON A PERSON WHO RENTS HIS RIDING BEAST FOR HALF OR FULL SHARE OF BOOTY

(2670) Wāthilah b. al-Asqa' said : The Apostle of Allah (may peace be upon him) announced to go on expedition for Tabūk. I went to my family and then proceeded (on journey). The vanguard of the Companions of the Apostle of Allah (may peace be upon him) had already proceeded. So I began to announce loudly in Medina : Is there anyone who takes a man on his ride, and he will get his share (from the booty) ? An old man from the *Anṣār* (Helpers) spoke loudly : We shall have his share if we take him with us on our mount by turns, and he will have his meal with us. I said : Yes. He said : So go on journey with Allah's blessing. I then proceeded along with

2019. Al-Zuhri is referring to the abrogation of this tradition.

2020. This shows that it is forbidden to burn the enemy. But this question is disputed. 'Umar, Ibn 'Abbās and others disapprove burning, whether it is due to disbelief or retaliation. 'Alī and Khālīd b. al-Walīd allow burning.

2021. It is not permissible to burn the ants. They may be killed if they harm people.

my best companion and Allah gave us booty. Some she-camels were given to me as my share of booty. I drove them till I reached him. He came out and sat on the rear part of the saddle of his camel. He then said : Drive them backward. He again said : Drive them forward. He then said : I find your she-camels very gentle. He said : This is your booty which I stipulated for you. He replied : Take your she-camels, my nephew ; we did not intend (to get) your portion.<sup>2022</sup>

### Chapter 970

#### ON A CAPTIVE WHO IS TIED WITH A CHAIN

(2671) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: Our Lord Most High is charmed with people who will be led to Paradise in chains.<sup>2023</sup>

(2672) Jundub b. Makīth said : The Apostle of Allah (may peace be upon him) sent 'Abd Allah b. Ghālib al-Laithī<sup>2024</sup> along with a detachment and I was also with them. He ordered them to attack Banū al-Mulawwih<sup>2025</sup> from all sides at al-Kadīd.<sup>2026</sup> So we went out and when we reached al-Kadīd we met al-Ḥārith b. al-Barṣā al-Laithī, and seized him. He said : I came with the intention of embracing Islam, and I came out to go to the Apostle of Allah (may peace be upon him). We said : If you are a Muslim, there is no harm if we keep you in chains for a day and night ; and if you are not, we shall tie you with chains. So we tied him with chains.<sup>2027</sup>

(2673) Abū Hurairah said : The Apostle of Allah (may peace be upon him) sent some horsemen to Najd and they brought a man of the Banū Hanīfah called Thumāmah b. Uthāl who was the chief of the people of al-Yamāmah and bound him to one of the pillars of the mosque. The Apostle of Allah (may peace be upon him) came out to him and said : What are you expecting, Thumāmah ? He replied : I expect good, Muḥammad. If you kill (me), you will kill one whose blood will be avenged ; if you show favour, you will show it to one who is grateful ; and if you want property and ask you will be given as much of it as you wish. The Apostle of Allah (may peace be upon him) left him till the following day, and asked him : What are you expecting, Thumāmah ? He repeated the same words (in reply). The Apostle of Allah (may peace

2022. According to Aḥmad b. Ḥanbal and al-Auzā'ī, it is permissible to give a man's portion of the booty to another man who carries him to the battlefield. Mālik holds that it is disapproved. Al-Shāfi'ī thinks that it is not legal ('*Awn al-Ma'būd*, II, 9).

2023. This means that in a battle some unbelievers are captivated and led to Muslim territory in chains. Later on they embrace Islam and thus enter Paradise by virtue of their belief.

2024. Al-Mundhirī says that the correct name is Ghālib b. 'Abd Allah.

2025. The name of a tribe.

2026. The name of a place.

2027. The Muslims arrested him thinking that he might be a spy. This also shows that the captives should be kept in chains so that they do not run away.

be upon him) left him till the day after the following one, and he mentioned the same words. The Apostle of Allah (may peace be upon him) then said : 'Set Thumamah free. He went off to some palm-tees near the mosque. He took a bath there and entered the mosque, and said, I testify that there is no god but Allah, and I testify that Muḥammad is His servant and His apostle. He then narrated the rest of the tradition. The narrator 'Isā said : Al-Laith narrated to us. He said : "a man of respect and reverence."<sup>2028</sup>

(2674) Yaḥyā b. 'Abd Allah b. 'Abd al-Raḥmān b. Sa'd b. Zurārah said : When the captives (of the battle of Badr) were brought, Saudah daughter of Zam'ah<sup>2029</sup> was present with the children of 'Afrā' at the halting place of their camels, that is, 'Awf and Mu'awwidh sons of 'Afrā'. This happened before the prescription of veil for them.<sup>2030</sup> Saudah said : I swear by Allah, I was with them when I came (from there to the people) and I was told : These are captives recently brought (here). I returned to my house, and the Apostle of Allah (may peace be upon him) was there, and Abū Zaid Suhail b. 'Amr was in the corner of the apartment and his hands were tied up on his neck with a rope.<sup>2031</sup> He then narrated the rest of the tradition.

Abū Dāwūd said : They (the sons of 'Afrā') killed Abū Jahl b. Hishām. They were deputed for him though they did not realise him : and they were killed in the battle of Badr.

### Chapter 971

#### ABUSING AND BEATING A CAPTIVE

(2675) Anas said : The Apostle of Allah (may peace be upon him) called on his Companions and they proceeded towards Badr. Suddenly they found the watering camels of the Quraish ; there was among them a black slave of Banū al-Ḥajjāj. The Companions of the Apostle of Allah (may peace be upon him) seized him and began to ask : Where is Abū Sufyān ? He said : I swear by Allah, I do not know anything about him ; but this is the Quraish who have come here ; among them are Abū Jahl, 'Utbah, Shaibah, the two sons of Rabī'ah, and Umayyah b. Khalaf. When he said this to them, they beat him, and he began to say : Leave me, leave me, I shall tell you. When they left him, he said : I know nothing about Abū Sufyān ; but this is the Quraish who have come (here) ; among them are Abū Jahl, 'Utbah, Shaibah, the two

2028. Instead of the words "one whose blood will be avenged," the narrator 'Isā narrated the words "a man of respect". By these words Uthāl meant that he was a respectable man of his tribe. If he is killed, a great man of his tribe will be killed.

2029. Wife of the Prophet (may peace be upon him).

2030. She came before the people as veil was not yet prescribed for women.

2031. This shows that war captives can be kept tied in chains or ropes lest they run away.



sons of Rabi'ah, and Umayyah b. Khalaf who have come here. The Prophet (may peace be upon him) was praying and hearing all that (dialogue). When he finished, he said : By Him in Whose hand my soul is, you beat him when he speaks the truth to you ; and you leave him when he tells a lie. This is the Quraish who have come here to defend Abū Sufyān. Anas said : The Apostle of Allah (may peace be upon him) said : This will be the place of falling of so-and-so tomorrow, and he placed his hand on the ground. This will be the place of falling of so-and-so tomorrow, and he put his hand on the ground. And this will be the place of falling of so-and-so, and he put his hand on the ground.<sup>2032</sup> He (Anas) said : By Him in Whose hand my soul is, no one fell beyond the place of the hand of the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) ordered for them, and they were caught by their feet and dragged, and thrown in a well at Badr.

### Chapter 972

#### A CAPTIVE SHOULD NOT BE FORCED TO EMBRACE ISLAM

(2676) Ibn 'Abbās said : When the children of a woman (in pre-Islamic days) did not survive, she took a vow on herself that if her child survive, she would convert it a Jew. When Banū al-Naḍīr were expelled (from Arabia), there were some children of the *Anṣār* (Helpers) among them. They said : We shall not leave our children. So Allah the Exalted revealed ; "Let there be no compulsion in religion. Truth stands out clear from error."<sup>2033</sup>

Abū Dāwūd said : *Muḡlāt* means a woman whose children do not survive.<sup>2034</sup>

### Chapter 973

#### ON KILLING A CAPTIVE WHEN ISLAM IS NOT PRESENTED TO HIM

(2677) Sa'd said : On the day when Mecca was conquered, the Apostle of Allah (may peace be upon him) gave protection to the people except four men and two

2032. This was the miracle of the Prophet (may peace be upon him) who knew beforehand the fate of some leading persons of the Quraish in the battle. He might have known it through revelation.

2033. Qur'ān, ii, 256.

2034. This means that the *Anṣār* should not compel their children to embrace Islam. If they consent to do so, they can have their children with them as Muslims ; otherwise they are free to choose any religion.

women and he named them. Ibn Abī Sarḥ was one of them.<sup>2035</sup> He then narrated the tradition. He said : Ibn Abī Sarḥ hid himself with 'Uthmān b. 'Affan. When the Apostle of Allah (may peace be upon him) called the people to take the oath of allegiance, he brought him and made him stand before the Apostle of Allah (may peace be upon him). He said : Apostle of Allah, receive the oath of allegiance from him. He raised his head and looked at him thrice, denying him every time. After the third time he received his oath. He then turned to his Companions and said : Is not there any intelligent man among you who would stand to this (man) when he saw me desisting from receiving the oath of allegiance, and kill him ? They replied : We do not know, Apostle of Allah, what lies in your heart ; did you not give us an hint with your eye ? He said : It is not proper for a Prophet to have a treacherous eye.<sup>2036</sup>

Abū Dāwūd said : 'Abd Allah (b. Abī Sarḥ) was the foster-brother of 'Uthmān, and Walīd b. 'Uqbah was his brother by mother, and 'Uthman inflicted on him *ḥadd* punishment when he drank wine.

(2678) Sa'īd b. Yarbū' al-Makhzūmī reported the Apostle of Allah (may peace be upon him) as saying on the day of the conquest of Mecca : There are four persons whom I shall not give protection in the sacred and non-sacred territory. He then named them. There were two singing girls of al-Maqls ; one of them was killed and the other escaped and embraced Islam.

Abū Dāwūd said : I could not understand its chain of narrators from Ibn al-'Alā' as I liked.

(2679) Anas b. Mālik said : The Apostle of Allah (may peace be upon him) entered Mecca in the year of the conquest (of Mecca) wearing a helmet on his head. When he took off it a man<sup>2037</sup> came to him and said : Ibn Akḥṭal<sup>2038</sup> is hanging with the curtains of the Ka'bah. He said : Kill him.

Abū Dāwūd said : The name of Ibn Akḥṭal is 'Abd Allah, and Abū Barzat al-Aslamī killed him.

2035. 'Abd Allah b. Sa'd b. Abī Sarḥ was earlier a Muslim. He was one of the scribes of revelation. But later on he turned apostate, and he took refuge with 'Uthmān. When the Prophet (may peace be upon him) did not give protection to him after the capture of Mecca, 'Uthman brought him to the Prophet (may peace be upon him) and he became a Muslim.

2036. The Prophet (may peace be upon him) wanted to kill him before embracing Islam, but he did not like to give a hint for killing him. 'Abd Allah b. Abī Sarḥ proved himself to be a true Muslim. This also shows that a captive should not be killed before presenting Islam to him.

2037. His name is Abū Barzat al-Aslamī.

2038. His name was 'Abd Allah or 'Abd al-'Uzzah. Earlier he was a Muslim. The Prophet (may peace be upon him) sent him to collect *ṣakhāt* along with a man of the *Anṣār* who was his commander. On the way he attacked the *Anṣārī* and looted his property. The Prophet (may peace be upon him) did not forgive him and killed him in retaliation of the blood of the *Anṣārī*. This also shows that even the curtains of the Ka'bah cannot restrain the enforcement of the Divine law ('*Awṇ al-Ma'būd*, III, 12).

### Chapter 974

#### KILLING A PRISONER IN CONFINEMENT

(2680) Ibrāhīm said : Al-Ḍaḥḥāk b. Qais intended to appoint Masrūq as governor. Thereupon 'Umārah b. 'Uqbah said to him : Are you appointing a man from the remnants of the murderers of 'Uthmān ? Masrūq said to him : Ibn Mas'ūd narrated to us, and he was trustworthy in respect of traditions, that when the Prophet (may peace be upon him) intended to kill<sup>2039</sup> your father, he said : Who will look after my children ? He replied : Fire.<sup>2040</sup> I also like for you what the Apostle of Allah (may peace be upon him) liked for you.

### Chapter 975

#### TO KILL A CAPTIVE WITH AN ARROW

(2681) Ibn Ti'īl said : We fought along with 'Abd al-Raḥmān b. Khālid b. al-Walīd. Four infidels from the enemy were brought to him. He commanded about them and they were killed in confinement.

Abū Dāwūd said : The narrators other than Sa'īd reported from Ibn Wahb in this tradition : "(killed him) with arrows in confinement." When Abū Ayyūb al-Anṣārī was informed about it, he said : I heard the Apostle of Allah (may peace be upon him) prohibiting to kill in confinement.<sup>2041</sup> By Him in Whose hands my soul is, if there were a hen, I would not kill it in confinement. 'Abd al-Raḥmān b. Khālid b. al-Walīd was informed about it (the Prophet's prohibition). He set four slaves free.<sup>2042</sup>

### Chapter 976

#### FAVOURING A CAPTIVE BY SETTING HIM FREE WITHOUT TAKING ANY RANSOM

(2682) Anas said : Eighty Meccans came down from the mountain of al-Tan'īm

2039. 'Uqbah b. Abī Mu'ait was a disbeliever. He did considerable harm to the Prophet (may peace be upon him). Once he threw a tripe on his back when he was offering prayer. 'Uqbah was killed in confinement.

2040. This has been interpreted in a twofold way. First, Hell-fire will look after his children. This means that he and his family will perish and no one will care for them. Second, 'Uqbah should take care of him as he will go to Hell. He should not care for his children.

2041. This shows that if a prisoner of war is killed, he should be killed in an ordinary manner. To kill him in captivity with arrow is strictly prohibited.

2042. Since 'Abd al-Raḥmān made a mistake by slaying the captives in confinement, he expiated by setting four slaves free.

against the Prophet (may peace be upon him) and his Companions at the (time of the) dawn prayer to kill them. The Apostle of Allah (may peace be upon him) took them captive without fighting, and the Apostle of Allah (may peace be upon him) set them free. Thereupon Allah Most High sent down : "He it is Who averted their hands from you and your hands from them in the valley of Mecca," till the end of the verse.<sup>2043</sup>

(2683) Jubair b. Muṭ'im reported the Prophet (may peace be upon him) as saying about the prisoners taken at Badr : If Muṭ'im b. 'Adī had been alive and spoken to me about these filthy<sup>2044</sup> ones, I would have left them for him.<sup>2045</sup>

### Chapter 977

#### TO SET A PRISONER OF WAR FREE BY TAKING RANSOM

(2684) 'Umar b. al-Khaṭṭāb said : During the battle of Badr, the Prophet (may peace be upon him) took ransom. Thereupon Allah Most High sent down : "It is not fitting for an Apostle that he should have prisoners of war until he hath thoroughly subdued the land. You look on the temporal goods of this world, but Allah looketh to the Hereafter. And Allah is Exalted in might and Wise. Had it not been for a previous ordainment from Allah, a severe penalty would have reached you for the (ransom) that you took."<sup>2046</sup> Allah then made the spoils of war lawful.<sup>2047</sup>

Abū Dāwūd said : I heard that Aḥmad b. Ḥanbal was asked about the name of Abū Nūḥ. He said : What will you do with his name ? His name is a bad one.

Abū Dāwūd said : The name of Abū Nūḥ is Qurād. What is correct is that his name is 'Abd al-Raḥmān b. Ghazwān.

(2685) Ibn 'Abbās said : The Prophet (may peace be upon him) fixed the ransom of the people of pre-Islamic Arabia<sup>2048</sup> at four hundred dirhams per head on the day of the battle of Badr.

2043. Qur'ān, xlviii. 24.

2044. He called the prisoners filthy because of impurity of their unbelief.

2045. Muṭ'im, the father of Jubair, the narrator of this tradition, had given protection to the Prophet (may peace be upon him) when he returned from al-Ṭā'if and defended him from the polytheists. The Prophet (may peace be upon him) wanted to compensate him for his graciousness if he had been alive.

2046. Qur'ān viii. 67.

2047. The Prophet (may peace be upon him) consulted the people about prisoners taken at Badr after their defeat. 'Umar suggested that they should be killed, while Abū Bakr opined that they should be set free after taking some compensation from them. The Prophet (may peace be upon him) acted upon the opinion of Abū Bakr. Qur'ānic verses were revealed against this decision, but the decision was validated.

2048. This refers to the Meccans who were defeated in the battle of Badr and taken prisoner.

(2686) 'Ā'ishah said: When the people of Mecca sent about ransoming their prisoners<sup>2049</sup> Zainab sent some property to ransom Abū al-'Āṣ, sending among it a necklace of hers which Khadijah had had, and (which she) had given to her when she married Abū al-'Āṣ. When the Apostle of Allah (may peace be upon him) saw it, he felt great tenderness about it and said: If you consider that you should free her prisoner for her and return to her what belongs to her, (it will be well). They said: Yes. The Apostle of Allah (may peace be upon him) made an agreement with him that he should let Zainab come to him, and the Apostle of Allah (may peace be upon him) sent Zaid b. Ḥārithah and a man of the *Anṣār* (the Helpers) and said: Wait in the valley of Yājjij<sup>2050</sup> till Zainab passes you, then you should accompany her and bring her back.<sup>2051</sup>

(2687) Marwān and al-Miswar b. Makhramah told that when the deputation of the Hawāzin came to the Muslims and asked the Apostle of Allah (may peace be upon him) to return to them their property, the Apostle of Allah (may peace be upon him) said to them: with me are those whom you see. The speech dearest to me is the one which is true; so choose (one of the two), either the captives or the property. They said: We choose our captives. The Apostle of Allah (may peace be upon him) stood up, extolled Allah and then said: To proceed, your brethren have come repentant and I have considered that I should return their captives to them, so let those of you who are willing to release the captives act accordingly, but those who wish to hold on to what they have till we give them some of the first booty Allah gives us may do so. The people said: We are willing for that (to release their captives), Apostle of Allah. The Apostle of Allah (may peace be upon him) said: We cannot distinguish between those of you who have granted that and those who have not; so return till your headmen may tell us about your affair. The people then returned and their headmen spoke to them; then they informed that they were agreeable and had given their permission.<sup>2052</sup>

(2688) 'Amr b. Shu'aib on his father's authority said that his grandfather told

2049. After the battle of Badr.

2050. The name of a place near Mecca.

2051. Zainab, daughter of the Prophet (may peace be upon him), was in Mecca. She made an agreement with her husband not to prevent her from coming over to Medina.

2052. The tribe of Hawāzin was defeated in battle, but the Prophet (may peace be upon him) did not distribute their captives and waited for the people of Hawāzin for more than ten days. He then blockaded al-Ṭā'if and thereafter returned to al-Ji'rānah where he distributed the spoils of war. The Hawāzin reached there and asked him to release their captives. The Prophet (may peace be upon him) could not release them without the consent of the people; hence he sought their consent, and released the captives. As a rule, it was not necessary to return their captives, but as they had become Muslims, the Prophet (may peace be upon him) returned their captives to console them ('*Awn al-Ma'būd*, III, 15).



in this narrative: The Apostle of Allah (may peace be upon him) then said: Return to them their women and their sons. If any of you withholds anything from this booty, we have six camels for him from the first booty which Allah gives us. The Prophet (may peace be upon him) then approached a camel, and taking a hair from its hump said: O people, I get nothing of this booty, not even this (meanwhile raising his two fingers) but the fifth,<sup>2053</sup> and the fifth is returned to you, so hand over threads and needles. A man got up with a ball of hair in his hand and said: I took this to repair the cloth under a pack-saddle. The Apostle of Allah (may peace be upon him) said: You can have what belongs to me and to the Banū 'Abd al-Muṭṭalib. He said: If it produces the result that I now realise, I have no desire for it.<sup>2054</sup>

### Chapter 978

#### THE RULER SHOULD STAY IN BATTLEFIELD WHEN HE OVERPOWERS ENEMY

(2689) Abū Ṭalḥah said: When the Apostle of Allah (may peace be upon him) prevailed on any people, he stayed three nights in the field. Ibn al-Muthannā said: When he prevailed over a people, he liked to stay three nights in the field.<sup>2055</sup>

Abū Dāwūd said: Yaḥyā b. Sa'īd used to object to this tradition, for this is not from his early traditions, because his memory was spoiled at the age of forty-five. He narrated this tradition in the last days of his age.

Abū Dāwūd said: It is said that Waki' received this tradition from him when his memory was spoiled.

2053. The Prophet (may peace be upon him) would receive one-fifth of the booty which he spent on his family.

2054. If it is the result of possessing, something from the booty before distribution, it is better to return it. It is worthy of note that first of all the booty is collected with the head of the expedition and then it is distributed among the people. It is illegal to take anything from the spoils of war without the permission of the commander.

All the traditions in this chapter indicate that it depends on the ruler of the Muslims either to release the prisoners without taking any ransom for them, or he may take ransom from them and set them free, or kill them. He should choose what is most beneficent for Islam. This view is held by al-Shāfi'i, Aḥmad b. Ḥanbal, al-Auzā'i, Sufyān al-Thawrī. Abū Ḥanīfah maintains that he may kill them if he wishes, or take ransom for them if he desires. But he should not favour them by releasing them without any compensation. Some scholars think releasing the prisoners without ransom was peculiar to the Prophet (may peace be upon him), others are not allowed to do so (*ʿAḥwāl al-Ma'būd*, III, 16).

2055. The Prophet (may peace be upon him) stayed three days in the field to show the sign of victory. Further, by this he also intended to impress the enemy by the power of the Muslims.

## Chapter 979

## SEPARATION BETWEEN PRISONERS

(2690) 'Alī said that he separated between a slave-girl and her child. The Prophet (may peace be upon him) prohibited it and made the sale transactions withdrawn.<sup>2056</sup>

Abū Dāwūd said : The narrator Maimūn (b. Abī Shaib) did not meet 'Alī. He (Maimūn) was killed in the battle of Jamājim in 83 A.H.

Abū Dāwūd said : The battle of Ḥarrah took place in 63 A.H., and Ibn al-Zubair was killed in 73 A.H.

## Chapter 980

## PERMISSION OF SEPARATION BETWEEN ADULTS

(2691) Salamah said : We went out (on an expedition) with Abū Bakr. The Apostle of Allah (may peace be upon him) appointed him commander over us. We attacked Fazārah and took them from all sides. I then saw a group of people which contained children and women. I shot an arrow towards them, but it fell between them and the mountain. They stood. I brought them to Abū Bakr. There was among them a woman of Fazārah.<sup>2057</sup> She wore a skin over her, and her daughter who was the most beautiful of the Arabs was with her. Abū Bakr gave her daughter to me as a reward. I came back to Medina. The Apostle of Allah (may peace be upon him) met me and said to me : Give me the woman, Salamah. I said to him : I swear by Allah, she is to my liking, and I have not yet untied her garment.<sup>2058</sup> He kept silence, and when the next day came, the Apostle of Allah (may peace be upon him) met me in the market and said to me : Give me the woman. Salamah, by Allah, your father. I said : Apostle of Allah, I have not yet untied her garment, I swear by Allah. She

2056. All scholars agree unanimously that children should not be sold separately from their mothers. The age of the child is disputed amongst jurists. According to Abū Ḥanīfah, children can be separated at the age of their puberty. Al-Shāfi'ī thinks it is seven or eight years, and maintains that when a child becomes independent of its mother, it can be separated. Mālik holds that a child can be separated from its mother at the age of maturity and understanding. Aḥmad b. Ḥanbal does not allow to separate a child from its mother at any age. He holds that both child and its mother should be sold together. Abū Ḥanīfah does not allow to separate two brothers in case one is younger than the other. In case both are younger, they can be sold. Al-Shāfi'ī validates separation between the kindred relations. Such a sale transaction is valid in the opinion of Abū Ḥanīfah, though abominable, and invalid according to al-Shāfi'ī (*'Awn al-Ma'būd*, III, 16).

2057. The name of a tribe.

2058. Meaning that he had not yet had intercourse with her.

is now yours. He sent her to the people of Mecca who had (some Muslim) prisoners in their hands. They released them for this woman.<sup>2059</sup>

### Chapter 981

#### ON PROPERTY TAKEN AWAY BY ENEMY FROM MUSLIMS AND THEN ITS OWNER FINDS IT IN BOOTY

(2692) Nāfi' said that a slave of Ibn 'Umar ran away to the enemy, and then the Muslims overpowered them. The Apostle of Allah (may peace be upon him) returned him to Ibn 'Umar and that was not distributed (as a part of booty).<sup>2060</sup>

Abū Dāwūd said : The other narrators said : Khālīd b. al-Walīd returned him to him (Ibn 'Umar).

(2693) Nāfi' said that a horse of Ibn 'Umar went away and the enemy seized it. The Muslims overpowered them. Khālīd b. al-Walīd returned it to him after the Prophet (may peace be upon him).

### Chapter 982

#### ON SLAVES OF UNBELIEVERS WHO JOIN MUSLIMS AND EMBRACE ISLAM

(2694) 'Alī b. Abū Ṭālib said : Some slaves (of the unbelievers) went out to the Apostle of Allah (may peace be upon him) on the day of al-Ḥudaibiyah before treaty. Their masters wrote to him saying : O Muḥammad, they have not gone out to you with an interest in your religion, but they have gone out to escape from slavery. Some people said : They have spoken the truth, Apostle of Allah, send them back to them. The Apostle of Allah (may peace be upon him) became angry and said : I do not see your restraining yourself from this action), group of Quraish, but that Allah send someone to you who strikes your necks. He then refused to return them, and said :

2059. As this woman was very handsome, the unbelievers of Mecca accepted this ransom and released the Muslim prisoners of Badr.

This also indicates that if the son or daughter is adult, they can be separated from their mother.

2060. According to al-Shāfi'i and other scholars, the property of Muslims cannot be owned by the enemy after their victory over Muslims. The real owner from the Muslims may take his property before the distribution of the booty or after it. The property of the Muslims possessed by the enemy should not be distributed as booty. Mālik and Aḥmad maintain that the owner may take back his property before its distribution but not after it. He may take it by paying its price. This view is also held by Abū Ḥanīfah who makes an exception of a slave. His master may take him back before and after the distribution of booty (*Awn al-Ma'būd*, III, 17).

They are emancipated (slaves) of Allah, the Exalted.<sup>2061</sup>

### Chapter 983

#### PERMISSION FOR USING FOOD OF ENEMY IN THEIR TERRITORY

(2695) Ibn 'Umar said : In the time of the Apostle of Allah (may peace be upon him) an army got food and honey and a fifth was not taken from them.

(2696) 'Abd Allah b. Mughaffal said : On the day of Khaibar a skin of fat was hanging. I came to it and clung to it. I then said (i.e. thought) : I shall not give anyone any of it today. I then turned round and saw the Apostle of Allah (may peace be upon him) smiling at me.<sup>2062</sup>

### Chapter 984

#### PROHIBITION OF TAKING PROPERTY FROM BOOTY BEFORE ITS DISTRIBUTION DURING SCARCITY OF FOOD IN ENEMY TERRITORY

(2697) Abū Labid said : We were with 'Abd al-Raḥmān b. Samurah in Kābul. The people got booty and plundered it. He stood and addressed (the people) : I heard the Apostle of Allah (may peace be upon him) prohibiting getting property from the booty before its distribution. Therefore, they returned what they had taken, He then distributed it among them.<sup>2063</sup>

(2698) Muḥammad b. Abū al-Mujāhid reported 'Abd Allah b. Abī Awfā as saying : I asked : Did you set aside the fifth of the food in the time of the Apostle of Allah (may peace be upon him)? He replied : On the day of Khaibar we captured food and a man would come and take as much food of it as needed and then go away.

(2699) Kulaib reported from a man of the *Anṣār*. He said : We went out with the Apostle of Allah (may peace be upon him) on a journey. The people suffered from intense need and strain. They gained booty and then plundered it. While our pots were boiling the Apostle of Allah (may peace be upon him) came walking with his

2061. This tradition shows that if some people or slaves come from the enemy territory seeking refuge with Muslims, they should not be returned to the enemy. It is possible that they may embrace Islam after some time.

2062. Scholars agree that it is permissible for the Muslims to consume food of the enemy in their territory, according to their needs. It is not necessary to take the permission of the Muslim ruler (*ʿAwn al-Maʿbūd*, III, 18).

2063. It is not permissible to take property from the booty when the whole army stands in need of it, particularly when the booty is small in quantity. One should take it when it is distributed among the army by the ruler.

bow touching the ground. He turned over our pots with his bow and smeared the meat with the soil, and said : "Plunder is more unlawful than carrion," or he said : "Carrion is more unlawful than plunder." The narrator Hannād was doubtful.<sup>2064</sup>

### Chapter 985

#### ON CARRYING FOOD FROM ENEMY TERRITORY

(2700) Al-Qāsim, the client of 'Abd al-Raḥmān, quoted one of the Companions of the Prophet (may peace be upon him) as saying : We would eat a camel on an expedition without dividing it, and when we returned to our dwellings our saddle-bags would be full with its flesh.<sup>2065</sup>

### Chapter 986

#### ON SELLING FOOD WHEN IT IS SURPLUS FROM THE NEEDS OF THE PEOPLE IN ENEMY TERRITORY

(2701) 'Abd al-Raḥmān b. Ghanam said : We were stationed at the frontiers of the city of Qinnisrīn<sup>2066</sup> with Shuraḥbīl b. al-Simṭ. When he conquered it, he got sheep and cows there. He distributed some of them amongst us, and deposited the rest of them in the spoils of war. I met Mu'ādh b. Jabal and mentioned it to him. Mu'ādh said : We went on an expedition to Khaibar along with the Apostle of Allah (may peace be upon him) and we got spoils there. The Apostle of Allah (may peace

2064. These traditions indicate that the army should not take any property from the booty unless it is divided among the fighters. The Prophet (may peace be upon him) turned over the boiling vessels as the booty had not yet been apportioned. Some traditions imply that Muslims took property from the booty before its distribution. It depends on the situation and circumstances. Sometimes the food of the army is finished or falls short of fulfilling the need of the whole army. In these circumstances the army is allowed to consume the articles of need before the division of the booty. But this is not a general rule. This is generally done in emergency.

2065. This shows that it is permissible to carry food from the enemy territory by the Muslim army. Sufyān al-Thawrī, Abū Ḥanīfah, and al-Shāfi'ī (in one of his statements) hold that the man who takes food from the enemy territory should return it to the commander. Al-Auzā'ī and al-Shāfi'ī (in another statement) maintain that a Muslim may carry food along with him from the enemy territory. It is his own property and it need not be returned to the commander. Al-Auzā'ī also holds that it is not permissible to sell the food ; one is allowed only to eat it. If a man sells it, he should deposit the price to the commander or the Muslim ruler. Mālik and Aḥmad b. Ḥanbal are of view that it is allowed to eat a little of it, like bread and meat.

It may be noted that al-Qāsim, the narrator of this tradition, is objectionable ('*Awn al-Ma'būd*, III, 19).

2066. The name of a place in Syria.



be upon him) divided them among us and placed the rest of them in the booty.<sup>2067</sup>

### Chapter 987

#### TO BENEFIT FROM AN ARTICLE OF BOOTY BEFORE ITS DIVISION

(2702) Ruwaifi' b. Thābit al-Anṣārī reported the Prophet (may peace be upon him) as saying: He who believes in Allah and the Last Day must not ride on pack-horse belonging to the booty of the Muslims and put it back when he has emaciated it; and he who believes in Allah and the Last Day must not wear a garment belonging to the booty of the Muslims and put it back when he made it threadbare.<sup>2068</sup>

### Chapter 988

#### PERMISSIBILITY OF USING THE WEAPONS OF THE ENEMY TO FIGHT IN THE BATTLEFIELD

(2703) 'Abd Allah b. Mas'ūd said: I passed when Abū Jahl had fallen as his foot was struck (with the swords). I said: O enemy of Allah, Abū Jahl, Allah has disgraced a man who was far away from His mercy. I did not strike him at that moment. He replied: It is most strange that a man has been killed by his people. I struck him with a blunt sword. But it did not work, and then his sword fell down from his hand, I struck him with it until he became dead.<sup>2069</sup>

### Chapter 989

#### GRAVITY OF APPROPRIATING THE SPOILS OF WAR DISHONESTLY

(2704) Zaid b. Khālid al-Juhānī said: A man from the Companions of the Prophet (may peace be upon him) died on the day of Khaibar. They mentioned the matter to the Apostle of Allah. He said: Offer prayer over your companion. When the faces of the people looked perplexed, he said: Your companion misappropriated booty in the path of Allah. We searched his belongings and found some Jewish beads not worth two dirhams.<sup>2070</sup>

2067. Before distribution of the booty the Prophet (may peace be upon him) gave some of it to the army on account of emergency to fulfil their needs.

2068. This shows that it is not permissible to use the articles of booty before its division among the army. Only food can be used for one's need.

2069. Ibn Mas'ūd used Abū Jahl's sword when he became wounded and killed him. This shows that Muslims are allowed to use the weapons of booty before their division among the army.

2070. This shows that it is not permissible to take away some articles from the spoils of war before division among the army.

(2705) Abū Hurairah said : We went out along with the Apostle of Allah (may peace be upon him) in the year of Khaibar. We did not get gold or silver in the booty of war except clothes, equipment and property. The Apostle of Allah (may peace be upon him) sent (a detachment) towards Wādī al-Qurā. The Apostle of Allah (may peace be upon him) was presented a black slave called Mid'am. And while they were in Wādī al-Qurā, and Mid'am was unsaddling a camel, belonging to the Apostle of Allah (may peace be upon him), he was struck by a random arrow which killed him. The people said : Congratulation to him ; he will go to Paradise. But the Apostle of Allah said : Not at all. By Him in Whose hand my soul is, the cloak he took on the day of Khaibar from the spoils which was not among the shares divided will blaze with fire upon him. When they (the people) heard that, a man brought a sandal-strap or two sandal-straps to the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) said : A sandal-strap of fire," or "two sandal-straps of fire."<sup>271</sup>

### Chapter 990

#### THE MUSLIM RULER MAY IGNORE MISAPPROPRIATION OF A TRIFLING ARTICLE BELONGING TO BOOTY, AND HE MAY NOT BURN THE EQUIPMENT OF THE PERSON CONCERNED

(2706) 'Abd Allah b. 'Amr said : When the Apostle of Allah (may peace be upon him) gained booty he ordered Bilāl to make a public announcement. He made a public announcement, and when the people brought their booty, he would take a fifth and divide it. Thereafter a man brought a halter of hair and said : Apostle of Allah, this is a part of the booty we got. He asked : Have you heard Bilāl making announcement three times ? He replied : Yes. He asked : What did prevent you from bringing it ? He made some excuse, to which he said : Be (as you are), you may bring it on the Day of Judgment, for I shall not accept it from you.<sup>272</sup>

2071. This shows that stealing anything from the spoils of war is forbidden. Hence some people returned the articles to the spoils of war.

2072. All the persons who gained the booty in the battlefield were asked to deposit it with the Muslim ruler or the commander. When all the booty was gathered together, one-fifth of it was taken out as a share of the Prophet (may peace be upon him) and the remnant was apportioned among the army. As the person who brought the rein to the Prophet (may peace be upon him) became late, the Prophet (may peace be upon him) did not accept it, for the fighters had dispersed, and it was not possible for him to distribute it among them. In the case of such a petty misappropriation, the Muslim ruler is required to ignore it ; he should not burn or destroy the property of the person who had stolen it.

## Chapter 991

PUNISHMENT FOR DISHONESTY REGARDING  
BOOTY

(2707) Ṣāliḥ b. Muḥammad b. Zā'idah (Abū Dāwūd said : This Ṣāliḥ is Abū Wāqid) said : We entered the Byzantine territory with Maslamah. A man who had been dishonest about booty was brought. He (Maslamah) asked Sālim about him. He said : I heard my father narrating from 'Umar b. al-Khaṭṭāb from the Prophet (may peace be upon him). He said : When you find a man who has been dishonest about booty, burn his property, and beat him. He said : We found in his property a copy of the Qur'ān. He again asked Sālim about it. He said : Sell it and give its price in charity.<sup>2073</sup>

(2708) Ṣāliḥ b. Muḥammad said : We went out on an expedition with al-Walīd b. Hishām, and Sālim b. 'Abd Allah b. 'Umar and 'Umar b. 'Abd al-'Azīz were with us. A man had been dishonest about booty. Al-Walīd ordered to burn his property and it was circulated (among the people). He did not give him his share.

Abū Dāwūd said : This is sounder of the two traditions ; others narrated that al-Walīd b. Hishām burnt the camel-saddle of Ziyād b. Sa'd ; he had been dishonest about booty, and he beat him.

(2709) 'Amr b. Shu'aib, on his father's authority, said that his grandfather told that the Apostle of Allah (may peace be upon him), Abū Bakr and 'Umar burned the belongings of anyone who had been dishonest about booty and beat him.

Abū Dāwūd said : 'Alī b. Baḥr added on the authority of al-Walīd, and I did not hear (a tradition) from him : "And they denied him his share."

Abū Dāwūd said : This tradition has also been transmitted by al-Walīd b. 'Utbah and 'Abd al-Wahhāb b. Najdah ; They said : This has been transmitted by al-Walīd, from Zuhair b. Muḥammad, from 'Amr b. Shu'aib. 'Abd al-Wahhāb b. Najdah al-Ḥuṭī did not mention the words "He denied him his share" (as narrated by 'Alī b. Baḥr from al-Walīd).<sup>2074</sup>

2073. This tradition has been literally followed by Aḥmad b. Ḥanbal, Maḥmūd and al-Auzā'i. Al-Ḥasan holds that all his property should be burnt except animals and a copy of the Qur'ān. Al-Taḥāwī observes that this is in case he is punished in respect of his property.

Al-Tirmidhī observes that this is a *gharīb* (unknown) tradition. The narrator Ṣāliḥ b. Muḥammad b. Zā'idah is objectionable. Hence this tradition is not reliable.

2074. Aḥmad and Ishāq follow these traditions literally. It may be noted that the property stolen by him from booty will not be burnt, for it contains the shares of all the warriors. Mālik, al-Shāfi'i and Abū Ḥanīfah hold that some punishment like flogging should be inflicted by the Muslim ruler to a person who shows dishonesty about booty.

*Chapter 992*PROHIBITION OF CONCEALING A MAN WHO IS  
DISHONEST ABOUT BOOTY

(2710) Samurah b. Jundub reported the Apostle of Allah (may peace be upon him) as saying : To begin with, anyone who conceals one who has been dishonest about booty is like him.<sup>2075</sup>

*Chapter 993*ON GIVING THE SPOILS AS A REWARD TO THE PERSON WHO  
KILLS (AN INFIDEL IN BATTLE)

(2711) Abū Qatādah said : We went out with the Apostle of Allah (may peace be upon him) in the year of Ḥunain, and when the armies met, the Muslims suffered a reverse. I saw one of the polytheists prevailing over a Muslim, so I went round him till I came to him from behind, and struck him with my sword at the vein between his neck and shoulder. He came towards me and closed with me, so that I felt death was near, but he was overtaken by death and let me go. I then caught up on 'Umar b. al-Khaṭṭāb and said to him : What is the matter with the people? He said : It is what Allah has commanded.<sup>2076</sup> Then the people returned, and the Apostle of Allah (may peace be upon him) sat down and said : If anyone kills a man and can prove it, he will get his spoil. I stood up and said : Who will testify for me? I then sat down. He said again : If anyone kills a man and can prove it, he will get his spoil.<sup>2077</sup> I stood up and said : Who will testify for me? I then sat down. He then said the same for the third time. I then stood up. The Apostle of Allah (may peace be upon him) said : What is the matter with you, Abū Qatādah? I told him the story. A man from the people said : He has spoken the truth, and I have his spoil with me, so make him agreeable (to take something in exchange). Abū Bakr said : In that case I swear by Allah that he must not do so. One of Allah's heroes does not fight for Allah and His Apostle, and then give you his spoil. The Apostle of Allah (may peace be upon

2075. It may be noted that the people should not conceal the person who has been dishonest about booty. The man who conceals the name of such a man becomes like him in respect of sin.

2076. He wondered why the Muslims had fled from the enemy, and 'Umar replied that it was what Allah had decreed.

2077. This shows that the spoil belongs to the man who kills the infidel. This is given as a reward to him and a fifth is not taken out from it. There is a dispute over this question among jurists. The majority maintains that the killer deserves the spoils, whether this reward is announced beforehand by the commander or not.

him) said : He has spoken the truth, hand it over to him. Abū Qatādah said : He handed it over to me ; I sold the coat of mail, and bought a garden among Banū Salamah. This was the first property I acquired in the Islamic period.

(2712) Anas reported the Apostle of Allah (may peace be upon him) as saying : He who kills an infidel gets his spoil. Abū Ṭalḥah killed twenty men that day, meaning the day of Hunain and got their spoils. Abū Ṭalḥah met Umm Sulaim who had a dagger with her. He asked : What is this with you, Umm Sulaim ? She replied : I swear by Allah, I intended that if anyone came near me, I would pierce his belly with it. Abū Ṭalḥah informed the Apostle of Allah (may peace be upon him) about it.

Abū Dāwūd said : This is a good (*ḥasan*) tradition.

Abū Dāwūd said : By this was meant dagger. The weapon used by the non-Arabs in those days was dagger.

### Chapter 994

#### THE MUSLIM RULER MAY NOT GIVE THE SPOILS OF THE SLAIN TO THE KILLER IF HE THINKS SO. THE HORSE AND WEAPONS ARE PART OF THE SPOILS

(2713) 'Awf b. Mālik al-Ashja'ī said : I went out with Zaid b. Ḥārithah in the battle of Mūtah. For the reinforcement of the Muslim army a man from the people of the Yemen, accompanied me. He had only his sword with him. A man from the Muslims slaughtered a camel. The man for the reinforcement asked him for a part of its skin which he gave him. He made it like the shape of a shield. We went on and met the Byzantine armies. There was a man among them on a reddish horse with a golden saddle and golden weapons. This Byzantinian soldier began to attack the Muslims desperately. The man for the reinforcement sat behind a rock for (attacking) him. He hamstrung his horse and overpowered him, and then killed him. He took his horse and weapons. When Allah, Most High, bestowed victory on the Muslims, Khālid b. al-Walīd sent for him and took his spoils. 'Awf said : I came to him and said : Khālid, do you not know that the Apostle of Allah (may peace be upon him) had decided to give spoils to the killer ? He said : Yes. I thought it abundant. I said : You should return it to him, or I shall tell you about it before the Apostle of Allah (may peace be upon him). But he refused to return it. 'Awf said : We then assembled with the Apostle of Allah (may peace be upon him). I told him the story of the man of reinforcement and what Khālid had done. The Apostle of Allah (may peace be upon him) said : Khālid, what made you do the work you have done ? He said : Apostle of Allah, I considered it to be abundant. The Apostle of Allah (may peace be upon him) said : Khālid, return it to him what you have taken from him. 'Awf said : I said to him : Here you are, Khālid : Did I not keep my word ? The Apostle of Allah (may



peace be upon him) said : What is that ? I then informed him. He said : The Apostle of Allah (may peace be upon him) became angry and said : Khālīd, do not return it to him. Are you going to leave my commanders ? You may take from them what is best for you, and leave to them what is worst.<sup>2078</sup>

(2714) The tradition mentioned above has also been transmitted by 'Awf b. Mālik al-Ashja'I through a different chain of narrators.

### *Chapter 995*

#### **ALL THE SPOILS OF THE SLAIN WILL GO TO THE KILLER, AND IT WILL NOT BE SUBJECT TO DIVISION INTO FIFTHS**

(2715) 'Awf b. Mālik al-Ashja'I and Khālīd b. al-Walīd said : The Apostle of Allah (may peace be upon him) gave judgment that the killer should have what was taken from the man he killed, and did not make this subject to division into fifths.<sup>2079</sup>

### *Chapter 996*

#### **THE VIEW THAT SPOILS MAY BE GIVEN TO A PERSON WHO KILLS A WOUNDED INFIDEL**

(2716) 'Abd Allah b. Mas'ūd said : At the battle of Badr the Apostle of Allah gave me Abū Jahl's sword, as I had killed him.<sup>2080</sup>

### *Chapter 997*

#### **HE WHO COMES AFTER THE DIVISION OF BOOTY WILL NOT RECEIVE A SHARE**

(2717) Sa'īd b. al-'Āṣ said : The Apostle of Allah (may peace be upon him) sent

2078. Literally : For you is the purity of their matter, and on them is its muddiness.

This tradition shows that the commander of the army may deny a fighter the spoils of the slain because of certain expediency. It is not always necessary to give the killer the spoils of the slain as a reward, for he gets his share from the booty like others. The Prophet (may peace be upon him) forbade Khālīd b. al-Walīd to give the spoils to the killer, for he meant that people should obey the commanders. Their right decisions will be in the interest of the people, and their wrong decisions will be a burden on them.

2079. This shows that a fifth is not taken out of the spoils awarded to a killer.

2080. Abū Jahl was actually killed by Mu'ādh b. 'Amr b. al-Jamūḥ, and Mu'ādh b. 'Afra', but he was beheaded by Ibn Mas'ūd. Hence he was given a share from his spoils.

Abū Sa'īd b. al-'Āṣ with an expedition from Medina towards Najd. Abān b. Sa'īd and his companions came to the Apostle of Allah (may peace be upon him) at Khaibar after it had been captured. The girths of their horses were made of palm fibres. Abān said : Give us a share (from the booty), Apostle of Allah. Abū Hurairah said : I said : Do not give them a share, Apostle of Allah. Abān said : Why are you talking so, *Wabr*?<sup>2081</sup> You have come to us from the peak of Ḍāl.<sup>2082</sup> The Prophet (may peace be upon him) said : Sit down, Abān. The Apostle of Allah (may peace be upon him) did not give any share to them (from the booty).<sup>2083</sup>

(2718) Abū Hurairah said : I came to Medina when the Apostle of Allah (may peace be upon him) was in Khaibar, after it was captured. I asked him to give me a share from the booty. A son of Sa'īd b. al-'Āṣ spoke and said : Do not give him any share, Apostle of Allah. I said : This is the killer of Ibn Qauqal.<sup>2084</sup> (The son of) Sa'īd b. al-'Āṣ said :<sup>2085</sup> Oh, how wonderful ! A *Wabr* who came down to us from the peak of Ḍāl blames me of having killed a Muslim whom Allah honoured at my hands, and did not disgrace me at his hands.<sup>2086</sup>

Abū Dāwūd said : They were about ten persons. Six of them were killed and the remaining returned.

(2719) Abū Mūsā said : We arrived just at the moment when the Apostle of Allah (may peace be upon him) conquered Khaibar and he allotted us a portion (or he said : he gave us some of it). He allotted nothing to anyone who was not present at the conquest of Khaibar, giving shares only to those who were present with him, except for those who were in our ship,<sup>2087</sup> Ja'far and his companions to whom he gave (a portion) something along with them.

(2720) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) stood up, i.e. on the day of Badr, and said : 'Uthmān has gone-off on the business of Allah

2081. *Wabr* means Hyrxyriaca, a small animal like cat. Abān addressed him so in a derogatory tone.

2082. The name of a mountain of the Daus, the tribe of Abū Hurairah.

2083. Those who do not participate in the battle and come after the division of spoils will not receive share. Abān and his companions did not participate in the battle of Khaibar. Hence the Apostle of Allah did not give them share from the booty.

2084. Ibn Qauqal was a Muslim and a Companion of the Prophet (may peace be upon him). He was killed in the Battle of Uhūd by the son of Sa'īd b. al-'Āṣ who was not a Muslim at that time.

2085. The correct version is : "The son of Sa'īd b. al-'Āṣ said : " as recorded by al-Bukhārī.

2086. Ibn Qauqal became a martyr and was admitted to Paradise. Had the son of Sa'īd been killed as an infidel, he would have gone to Hell.

2087. This refers to a party of Muslims who had migrated from Mecca to Abyssinia and were not returning.

and His Apostle,<sup>2088</sup> and I shall take the oath of allegiance<sup>2089</sup> on his behalf. The Apostle of Allah (may peace be upon him) then allotted him a share, but did not do so for anyone else who was absent.

### Chapter 998

#### ON ALLOTING A PORTION FROM THE BOOTY TO A WOMAN AND A SLAVE WHO PARTICIPATE IN BATTLE

(2721) Yazīd b. Hurmuz said : Najdah wrote to Ibn 'Abbās asking him about such-and-such, and such-and-such, and he mentioned some things ; he (asked) about a slave whether he would get something from the spoils ; and he (asked) about women whether they used to go out (on expeditions) along with the Apostle of Allah (may peace be upon him), and whether they would be allotted a share. Ibn 'Abbās said : Had I not apprehended a folly, I would not have written (a reply) to him. As for the slave, he was given a little of the spoils (as a reward from the booty) ; as to the women, they would treat the wounded and supply water.<sup>2090</sup>

(2722) Yazīd b. Hurmuz said : Najdah al-Ḥarūrī wrote to Ibn 'Abbās asking him whether the women participated in battle along with the Apostle of Allah (may peace be upon him), and whether they were allotted a share from the spoils. I (Yazīd b.

2088. As Ruqayyah, daughter of the Prophet (may peace be upon him) and wife of 'Uthmān, was ill, he (i.e. 'Uthmān) could not participate in the battle of Badr. 'Uthmān remained at Medina to attend her during her illness. She could not survive and died while the Prophet (may peace be upon him) was at Badr. The Prophet (may peace be upon him) said about 'Uthmān that he would give a share like that of a man who participated in the battle of Badr. Hence he allotted him a share from the booty, for 'Uthmān remained behind with the permission of the Prophet (may peace be upon him). This shows that a Muslim ruler can give a share to a person who is absent from battle due to some official mission. But if a man participates in the battle after it is closed, and he is not sent by the Muslim ruler on any official mission, he will not be given any share according to Mālik, al-Shāfi'i, al-Auzā'i, al-Thawrī, and al-Laith. Abū Ḥanīfah holds that he will get a share before the booty is brought to the Muslim territory.

2089. There seems to be a confusion on the part of the narrator. The Prophet (may peace be upon him) did not take any oath of allegiance on the day of Badr. He took this oath of allegiance of al-Ḥudāibiyyah, known as *bai'at al-riḍwān*. 'Uthmān was not present on the occasion of taking this oath, as he was sent as a messenger by the Prophet (may peace be upon him) to the Meccans for negotiations. Hence he took the oath of allegiance on his behalf. This did not happen on the day of Badr.

2090. Women and slaves will be given a little of the spoils for their service in the battle, and not a full portion like other fighters. This is held by al-Shāfi'i and Abū Ḥanīfah and a majority of scholars. According to Mālik, they will not be given anything. Al-Ḥasan, Ibn Sīrīn, al-Nakha'i and al-Ḥakam maintain that they will be given a share from the booty if they fight (*'Awn al-Ma'būd*, III, 26).

Hurmuz) wrote a letter on behalf of Ibn 'Abbās to Najdah : They participated in the battle along with the Apostle of Allah (may peace be upon him), but no portion (from the spoils) was allotted to them ; they were given only a little of it.<sup>2091</sup>

(2723) Ḥashraj b. Ziyād reported on the authority of his grandmother that she went out along with the Apostle of Allah (may peace be upon him) for the battle of Khaibar. They were six in number including herself. (She said) : When the Apostle of Allah (may peace be upon him) was informed about it, he sent for us. We came to him, and found him angry. He said : With whom did you come out, and by whose permission did you come out ? We said : Apostle of Allah, we have come out to spin the hair, by which we provide aid in the path of Allah ; we have medicine for the wounded, we hand over arrows (to the fighters), and supply drink made of wheat or barley. He said : Stand up. When Allah bestowed victory of Khaibar on him, he allotted shares to us from spoils as he allotted to men. He (Ḥashraj b. Ziyād) said : I said to her : Grandmother, what was that ? She replied : Dates.<sup>2092</sup>

(2724) 'Umair, client of Abī al-Laḥm said : I was present at Khaibar along with my masters who spoke about me to the Apostle of Allah (may peace be upon him). He ordered about me, and a sword was girded on me and I was trailing it. He was then informed that I was a slave. He, therefore, ordered that I should be given some inferior goods.

Abū Dāwūd said : This means that he (the Prophet) did not allot a portion of the spoils.

Abū Dāwūd said : Abū 'Ubaid said : As he (the narrator Abī al-Laḥm) made eating meat unlawful on himself, he was called Abī al-Laḥm (one who hates meat).

(2725) Jābir said : I supplied water to my companions on the day of Badr.

### Chapter 999

#### SHOULD A POLYTHEIST BE GIVEN A SHARE FROM THE BOOTY | IF HE ACCOMPANIES MUSLIMS IN THE BATTLE ?

(2726) 'Ā'ishah said (this is the version of narrator Yaḥyā) : A man from the

<sup>2091</sup>. Women are not given any share from the booty like other fighters. They are given something as a reward. This view is held by Abū Ḥanīfah, al-Thawrī, al-Laith, al-Shāfi'ī and a majority of scholars. According to al-Auzā'ī, women will be allotted a share if they fight, or treat the wounded. Mālik holds that they will not be given anything even as a reward (*'Awn al-Ma'būd*, II, 26).

<sup>2092</sup>. This tradition contradicts many other traditions mentioned previously. But this is weak, for the narrator Ḥashraj is obscure. Only al-Auzā'ī holds that women get a share from the booty like men.

This tradition has also been interpreted in a different manner. The grandmother of Ḥashraj might mean that the Prophet (may peace be upon him) had given women dates as he had given to

polytheists accompanied the Prophet (may peace be upon him) to fight along with him. He said : Go back. Both the narrators (Musaddad and Yaḥyā) then agreed. (The Prophet said) : We do not want any help from a polytheist.<sup>2093</sup>

### Chapter 1000

#### ON ALLOTING TWO PORTIONS FOR THE HORSE OF A RIDER FROM THE BOOTY

(2727) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) allotted three portions for a man and his horse—one for him and two for his horse.<sup>2094</sup>

(2728) Abū 'Umrah reported on the authority of his father : We, four persons, came to the Apostle of Allah (may peace be upon him), and we (i.e. each one of us) had horses. He, therefore, allotted one portion for each of us, and two portions for his horse.

(2729) The tradition mentioned above has also been transmitted by Abū 'Umrah through a different chain of narrators to the same effect. But this version has : "Three persons," and added : "To the horseman three portions."

### Chapter 1001

#### THE VIEW THAT ONE PORTION SHOULD BE GIVEN TO THE HORSE

(2730) Muḥammīd b. Jāriyat al-Anṣārī, who was one of the Qur'ān-readers who read the Qur'ān, said : We were present with the Apostle of Allah (may peace be upon him) at al-Ḥudaibiyah. When we returned, the people were driving their camels quickly. The people said to one another : What is the matter with the people ? They said, Revelation has come down to the Prophet (may peace be upon him). We also proceeded with the people galloping (our camels). We found the Prophet (may peace be upon him) standing on his riding-beast at Kurā' al-Ghamīm.<sup>2095</sup> When the people gathered near him, he recited : "Verily We have granted thee a manifest victory."<sup>2096</sup>

men. She did not mean that the Prophet (may peace be upon him) allotted them an equal share from the spoils. She meant only quantity and not share (*'Awn al-Ma'būd*, III, 27).

2093. As the Prophet (may peace be upon him) did not agree to seek help from a polytheist, how could he give him a share from the booty ?

2094. There is a difference of opinion among scholars on allotting a share to the horsemen. According to the majority of scholars, a horseman shall get three portions, one for himself and two for his horse ; and a footman will get a single share. Abū Ḥanīfah holds that a horseman will get double share only : one for himself and one for his horse (*'Awn al-Ma'būd*, III, 27).

2095. The name of a place between Mecca and Medina.

2096. Qur'ān, xlviii. 1.



A man asked : Is this a victory, Apostle of Allah ? He replied : Yes. By Him in Whose hands the soul of Muḥammad is, this is a victory. Khaibar was divided among those who had been at al-Ḥudaibiyyah, and the Apostle of Allah (may peace be upon him) divided it into eighteen portions. The army was one thousand five hundred, of which three hundred were cavalry, and he gave two shares to a horseman and one to a footman.

Abū Dāwūd said : Abū Mu'āwiyah's<sup>2097</sup> tradition is sounder, and it is the one which is followed. I think the error is in the tradition of Mujammi', because he said : "three hundred horsemen," when there were only two hundred.<sup>2098</sup>

### Chapter 1002

#### ON GIVING A REWARD TO A FIGHTER BY THE MUSLIM RULER

(2731) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) said on the day of Badr : He who does such-and-such, will have such-and-such. The young men came forward and the old men remained standing near the banners, and they did not move from there. When Allah bestowed victory on them, the old men said : We were support for you. If you had been defeated, you would have returned to us. Do not take this booty alone, and we remain (deprived of it). The young men refused (to

2097. This refers to the previous tradition which indicates that the Prophet (may peace be upon him) allotted a single share to a footman and double share to a horseman

2098. This tradition is the basis of the view that a horseman gets double share and a footman gets a single share. Out of eighteen portions, six portions will go to horsemen, and twelve portions to footmen. This view is held by Abū Ḥanīfah. But this tradition is weak. Al-Shāfi'i observes that the narrator Mujammi' b. Jāriyah was an old man, and he is not well known. Hence he preferred the tradition of 'Ubaid Allah to this tradition. Al-Khaṭṭābī says that the number of the army and the number of the horsemen mentioned by Mujammi' have been contradicted by other traditions. According to the version of Jābir and historians of the battles of the Prophet (may peace be upon him), the army which returned from al-Ḥudaibiyyah to Khaibar was one thousand four hundred. According to the version of Ibn 'Abbās, Ṣāliḥ b. Kaisān, Bashīr b. Yasar, and historians, the horsemen were two hundred. The horse was given two portions and its master one portion. Ibn Qayyim said in *Zād al-Ma'ād* : Khaibar was in fact divided into thirty-six portions, each comprising one hundred portions. Thus there were three thousand and six hundred portions. Out of these portions only half, i.e. one thousand eight hundred, were divided among the Muslims. The Prophet himself (may peace be upon him) received a portion like others. The remaining half, i.e. one thousand eight hundred portions, were kept in reserve for emergency. The same army which fought in al-Ḥudaibiyyah fought in Khaibar. They were one thousand four hundred in number. They had two hundred horsemen with them. The horseman was given three portions and the footman one portion. All the people who were present at al-Ḥudaibiyyah were also present at Khaibar except Jābir b. 'Abd Allah. The Prophet (may peace be upon him) allotted him a portion in his absence. This is the most reliable explanation on the subject (*ʿAwn al-Ma'būd*, III, 29).

give), and said : The Apostle of Allah (may peace be upon him) has given it to us. Then Allah sent down : "They ask thee concerning (things taken as) spoils of war, Say : (Such) spoils are at the disposal of Allah and the Apostle. . . . Just as thy Lord ordered thee out of thy house in truth, even though a party among the believers disliked it."<sup>2099</sup> This proved good for them. Similarly obey me. I know the consequence of this better than you.<sup>2100</sup>

(2732) Ibn 'Abbās reported : The Apostle of Allah (may peace be upon him) said on the day of Badr : He who kills a man will get such-and-such, and he who captivates a man will get such-and-such. The narrator then transmitted the rest of the tradition in a similar manner. The tradition of Khālīd is more perfect

(2733) The tradition mentioned above has also been transmitted by Dāwūd with a different chain of narrators. He said : The Apostle of Allah (may peace be upon him) apportioned it (spoils of war) equally. The tradition of Khālīd is more perfect.

(2734) Muṣ'ab b. Sa'd reported on the authority of his father (Sa'd b. Abī Waqqāṣ) : I brought a sword to the Prophet (may peace be upon him) on the day of Badr, and I said (to him) : Apostle of Allah, Allah has healed up my breast from the enemy today ; so give me this sword. He said : This sword is neither mine nor yours. I then went away saying : Today this will be given to a man who has not been put to trial like me. Meanwhile a messenger came to me and said : Respond. I thought something was revealed about me owing to my speech. I came and the Prophet (may peace be upon him) said to me : You asked me for this sword, but this was neither mine nor yours. Now Allah has given it to me ; hence it is yours. He then recited : "They ask thee concerning (things taken as) spoils of war. Say : (Such) spoils are at the disposal of Allah and the Apostle."<sup>2101</sup> Abū Dāwūd said : According to the reading of the Qur'ān of Ibn Mas'ūd, the verse goes : "They ask thee concerning (things taken as) spoils of war."<sup>2102</sup>

### Chapter 1003

#### ON GIVING SOMETHING ADDITIONAL AS A REWARD TO A DETACHMENT OF THE ARMY

(2735) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) sent us

2099. Qur'ān, viii. 1-5.

2100. Despite the dislike of the young men, the Prophet (may peace be upon him) apportioned the booty among warriors equally, as the Qur'ān demanded. He did not care for the denial of the young people.

2101. Qur'ān, viii. 1.

2102. The Prophet (may peace be upon him) did not give him the sword, for it was a part of the booty, and all the warriors had their share in it. When the verse about the fifth was revealed, the Prophet (may peace be upon him) took the sword, and gave it to Sa'd b. Abī Waqqāṣ.

along with an army towards Najd, and he sent a detachment of that army (to face the enemy). The whole army got twelve camels per head as their portion, but he gave the detachment one additional camel (apart from the division made to the army). Thus they got thirteen camels each (as a reward).<sup>2103</sup>

(2736) Al-Walīd b. Muslim said : I narrated this tradition (mentioned above) to Ibn al-Mubārak and said : And similarly it has been narrated by Ibn Abī Farwah to us on the authority of Nāfi' (as narrated by Shu'aib). He (Ibn al-Mubārak) said : Those whom you have named cannot be equal to Mālik, i.e. Malik b. Anas.<sup>2104</sup>

(2737) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) sent a detachment to Najd. I went out along with them, and got abundant riches. Our commander gave each of us a camel as a reward. We then came upon the Apostle of Allah (may peace be upon him) and he divided the spoils of war among us. Each of us received twelve camels after taking a fifth of it. The Apostle of Allah (may peace

2103. This shows that a Muslim ruler can give a detachment an additional share from the booty apart from the division made to the whole army. 'Amr b. Shu'aib thinks it was peculiar to the Prophet (may peace be upon him), and after him it is not allowed. Mālik disapproves it if a Muslim ruler stipulates it before fighting, for the battle will be meant for getting the booty. It is disputed among scholars whether this reward or additional share is a part of booty. According to Shāfi'i jurists, it is a part of the fifth of a fifth. Al-Auzā'i, Aḥmad and Abū Thawr hold that it is a part of the booty. Mālik and a group of scholars maintain that the reward should be given from the fifth of the booty. Ibn 'Abd al-Barr observes that if the Muslim ruler gives superiority to some people of the army due to some merit, the reward will be given from the fifth, and not from the booty. If he intends to reward a detachment sent separately from the army, and the detachment brings some booty, the reward will be given from the booty, provided it does not exceed one-third. Al-Khaṭṭābī says that if the detachment brings some booty, this will be apportioned in combination of the booty gained by the whole army. Ibn al-Musayyab, al-Shāfi'i and Abū 'Ubaid hold that the reward will be given from the fifth of the Prophet (may peace be upon him). Others maintain that reward will be given from the booty which the detachment had gained separately ('*Awn al-Ma'būd*, III, 31).

2104. Al-Walīd b. Muslim transmitted this tradition on the authority of Shu'aib and Ibn Abī Farwah. The name of Ibn Abī Farwah is Ishāq b. 'Abd Allah. He is a weak narrator. His transmission is not reliable. Both these narrators were inferior to Mālik b. Anas who compiled *al-Muwaffā'*. The tradition narrated by Ibn Abī Farwah and Shu'aib indicates that each one of the army received thirteen camels, while the tradition narrated by Malik b. Anas in *al-Muwaffā'* indicates that each one received twelve or eleven camels. In this tradition the number is doubtful. But the other narrators from Nāfi' narrated twelve camels without doubt. Hence the portions were disputable amongst scholars. It is also disputed whether the reward was given by the Prophet (may peace be upon him) or by the commander of the army. Abū Dāwūd recorded both traditions. According to one, the reward was given by the Prophet (may peace be upon him) and, according to the other, it was given by the commander. These traditions have been reconciliated by saying that earlier the reward was given by the commander, and later on it was approved by the Prophet (may peace be upon him) ('*Awn al-Ma'būd*, III, 31-32).

be upon him) did not take account of our companion (i.e. the commander of the army), nor did he blame him for what he had done. Thus each man of us had received thirteen camels with the reward he gave.

(2738) Nāfi' reported on the authority of 'Abd Allah b. 'Umar : The Apostle of Allah (may peace be upon him) sent a detachment towards Najd. 'Abd Allah b. 'Umar also accompanied it. They gained a large number of camels as a booty. Their portion was twelve camels each, and they were rewarded (in addition) one camel each. The version of Ibn Mawhab added : The Apostle of Allah (may peace be upon him) did not change it.

(2739) 'Abd Allah (b. 'Umar) said : The Apostle of Allah (may peace be upon him) sent us along with a detachment. The share of each of us was twelve camels. The Apostle of Allah (may peace be upon him) gave each one of us a camel as a reward.

Abū Dāwūd said : Burd b. Sinān narrated a similar tradition from Nāfi' as narrated by 'Ubaid Allah. Ayyūb also narrated from Nāfi' a similar tradition, but his version goes : We were rewarded one camel each. He did not mention the Prophet (may peace be upon him).

(2740) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) used to give to some of the detachments he sent out (something extra) for themselves in particular apart from the division made to the whole army. The fifth is necessary in all that.<sup>2105</sup>

(2741) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) went out on the day of Badr along with three hundred and fifteen (men). The Apostle of Allah (may peace be upon him) said : O Allah, they are on foot, provide mounts for them ; O Allah, they are naked, clothe them ; O Allah, they are hungry, provide food for them. Allah then bestowed victory on them. They returned when they returned. There was no man of them but he returned with one or two camels ; they were clothed and ate to their fill.

### *Chapter 1004*

#### THE VIEW THAT THE FIFTH OF THE BOOTY MAY BE DEDUCTED BEFORE GIVING THE REWARD

(2742) Ḥabīb b. Maslamah al-Fihri said : The Apostle of Allah (may peace be upon him) would give a third of the spoils after he would keep off the fifth.<sup>2106</sup>

2105. This shows that the fifth should be taken out of the booty in the beginning, then the reward should be given. After giving the reward the booty should be apportioned.

2106. This shows that the Prophet (may peace be upon him) first deducted the fifth of the spoils and thereafter he gave the reward. It is possible that both these acts might be performed simultaneously. As for the reward, there is a difference of opinion amongst scholars on its limit.

(2743) Ḥabīb b. Maslamah said : The Apostle of Allah (may peace be upon him) used to give a quarter of the booty as reward after the fifth had been kept off, and a third after the fifth had been kept off when he returned.

(2744) Makḥūl said : I was the slave of a woman of Banū Hudhail ; afterwards she emancipated me. I did not come out of Egypt unless I acquired all the knowledge that was there in my opinion. I then came to al-Ḥijāz and I did not come out of it unless I acquired all the knowledge that was there in my opinion. Then I came to al-ʿIrāq, and I did not come out of it unless I acquired the knowledge that was there in my opinion. I then came to Syria, and sieged it. I asked everyone about giving the reward from the booty. I did not find anyone who could tell me anything about it. I then met an old man called Ziyād b. Jāriyah al-Tamīmī. I asked him : Have you heard anything about giving the reward from the booty ? He replied : Yes. I heard Maslamah al-Fihri say : I was present with the Prophet (may peace be upon him). He gave a quarter of the spoils on the outward journey and a third on the return journey.<sup>2107</sup>

### Chapter 1005

#### ON A DETACHMENT WHICH RETURNS TO THE ARMY

(2745) ʿAmr b. Shuʿaib on his father's authority said that his grandfather reported the Apostle of Allah (may peace be upon him) as saying : Muslims are equal in respect of blood. The lowest of them is entitled to give protection on behalf of them, and the one residing far away may give protection on behalf of them. They are like one hand over against all those who are outside the community.<sup>2108</sup> Those who have quick mounts should return to those who have slow mounts, and those who got out along with a detachment (should return) to those who are stationed.<sup>2109</sup> A believer

Makḥūl and al-Auzāʿī hold that the reward should not exceed one-third of the spoils. Al-Shāfiʿī maintains that no limit is prescribed for the reward. It depends on the discretion of the Muslim ruler (*ʿAwn al-Maʿbūd*, III, 33).

2107. This tradition refers to giving the reward to a section of the army which comes in contact with the enemy. The Prophet (may peace be upon him) granted them greater amount on the return journey because it is more difficult and dangerous to fight the enemy after going through the campaign and exhausting the energy in fighting. But it is not so difficult to fight in the beginning for the warriors are fresh and energetic.

2108. To fulfil an agreement is most significant in Islam. If a Muslim of lower rank concludes a treaty or makes an alliance with a foreign country, or he gives protection to a non-Muslim in Muslim territory, all the Muslims are bound to keep his word.

2109. If a detachment is sent out to some place, and it returns with spoils of war, the people who participated in this detachment will not receive separate shares from the booty they had gained. This will be a part of the total booty, and they will get a share like others.



shall not be killed for an unbeliever, nor a confederate within the term of confederation with him.<sup>2110</sup>

Ibn Ishāq did not mention retaliation and equality in respect of blood.

(2746) Salamah (b. al-Akwa') said: 'Abd al-Rahmān b. 'Uyainah raided the camels of the Apostle of Allah (may peace be upon him) and killed their herdsman. He and some people who were with him on horses proceeded on driving them away. I turned my face towards Medina and shouted three times: A morning raid. I then went after the people shooting arrows at them and hamstringing them (their beasts). When a horseman returned to me, I sat in the foot of a tree, till there was no riding-beast of the Prophet (may peace be upon him) created by Allah which I had not kept behind my back. They threw away more than thirty lances and thirty cloaks to lighten themselves. Then 'Uyainah came to them with a reinforcement, and said: A few of you should go to him. Four of them stood and came to me. They ascended a mountain. When they came near me till they could hear my voice, I told them: Do you know me? They said: Who are you? I replied: I am Ibn al-Akwa'. By Him Who honoured the face of Muḥammad (may peace be upon him) if any man of you pursues me, he cannot catch me, and if I pursue him, I will not miss him. This went on with me till I saw the horsemen of the Apostle of Allah (may peace be upon him), coming through the trees. Al-Akhram al-Asadī was at their head. He then joined 'Abd al-Rahmān b. 'Uyainah and 'Abd al-Rahmān turned over him. They attacked each other with lances. Al-Akhram hamstrang 'Abd al-Rahmān's horse, and 'Abd al-Rahmān pierced a lance in his body and killed him. 'Abd al-Rahmān then returned on the horse of al-Akhram. Then Abū Qatādah joined 'Abd al-Rahmān, and attacked each other with lances. He hamstrang the horse of Abū Qatādah, and Abū Qatādah killed him. Abū Qatādah then returned on the horse of al-Akhram. I then came to the Apostle of Allah (may peace be upon him) who was present at the same water from where I drove them away and which is known as Dhū Qarad.<sup>2111</sup> The Prophet (may peace be upon him) was among five hundred people. He then gave me two portions, a horseman's and a footman's.<sup>2112</sup>

2110. According to Abū Hanīfah, if a Muslim kills a non-Muslim, the Muslim shall be killed in retaliation. Al-Shāfi'ī holds that a Muslim will not be killed in retaliation. Only blood-money shall be paid to the heirs of the slain.

2111. The name of a watering place outside Medina.

2112. It is not certain how many shares the Prophet (may peace be upon him) had given to him. These might be three or four. According to the majority of scholars, a horseman is given three shares, while Abū Hanīfah holds that a horseman is given two shares. The Prophet (may peace be upon him) gave him an additional share, as he performed the work alone which only many persons could perform.

## Chapter 1006

ON GIVING REWARD FROM GOLD AND SILVER  
AND FROM BOOTY

(2747) Abū al-Juwairīyyah al-Jarmī said : I found a red pitcher containing *dīnārs* in Byzantine territory during the reign of Mu'āwiyah. A man from the Companions of the Prophet (may peace be upon him) belonging to Banū Sulaim was our ruler. He was called Ma'an b. Yazīd. I brought it to him. He apportioned it among the Muslims. He gave me the same portion which he gave to one of them. He then said : Had I not heard the Apostle of Allah (may peace be upon him) say : There is no reward except after taking the fifth (from the booty), I would have given you (the reward). He then presented his own share to me, but I refused.<sup>2113</sup>

(2748) The tradition mentioned above has also been transmitted by 'Aṣīm b. Kulaib through a different chain of narrators to the same effect.

## Chapter 1007

ON TAKING SOMETHING FROM BOOTY BY A MUSLIM  
RULER FOR HIMSELF

(2749) 'Amr b. 'Abasah said : The Apostle of Allah (may peace be upon him) led us in prayer facing a camel which had been taken in booty, and when he had given the salutation, he took a hair from the camel's side and said : I have no right as much as this of your booty, but only to the fifth, and the fifth is returned to you.<sup>2114</sup>

2113. This means that reward is not given from all sorts of booty. The booty which is gained in a battle after fighting is called *ghanimah*, and the one which is acquired without fighting by the treaty of peace, or by some other means is called *fai'*. The fifth is taken from *ghanimah* and not from *fai'*. It is distributed equally among the Muslims. Reward is given from *ghanimah* after taking the fifth from it. Now the property gained by Abū al-Juwairīyyah was not *ghanimah* but *fai'*. Hence reward could not be given from it. And the fifth was also not taken from it ('*Awā al-Ma'būd*, III, 36).

2114. A Muslim ruler should not take anything for himself from the booty except the fifth, and should apportion the rest among the warriors. The fifth which he takes from the booty is not meant for himself. It will be spent in public interest, i.e. on defence, construction of roads, orphans and the indigents. He is not entitled to what is called *ṣafi*, a special share reserved for the chief of the army. But some scholars hold the view that a Muslim ruler can take a special share for himself from the booty. The matter is in dispute ('*Awā al-Ma'būd*, III, 36-37).

*Chapter 1008*

## ON FULFILLING A COVENANT

(2750) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying : A banner will be hoisted for a treacherous man on the Day of Judgment ; it will then be announced : This is a treachery of so-and-so,<sup>2115</sup> son of so-and-so.

*Chapter 1009*ALLIANCE MADE BY A MUSLIM RULER SHOULD BE  
FULFILLED BY MUSLIMS

(2751) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : A Muslim ruler is a shield by which a battle is fought.<sup>2116</sup>

(2752) Abū Rāfi' said : The Quraish sent me to the Apostle of Allah (may peace be upon him),<sup>2117</sup> and when I saw the Apostle of Allah (may peace be upon him), Islam was cast into my heart, so I said : Apostle of Allah, I swear by Allah, I shall never return to them. The Apostle of Allah (may peace be upon him) replied : I do not break a covenant or imprison messengers, but return, and if you feel the same as you do just now, come back.<sup>2118</sup> So I went away, and then came to the Prophet (may peace be upon him) and accepted Islam.

The narrator Bukair said : He<sup>2119</sup> informed me that Abū Rāfi' was a Copt.

2115. To keep one's word or to fulfil an alliance or covenant made with another party is most significant in Islam. If a slave, a woman or a man of lower rank gives the word on behalf of the Muslims, they are bound to abide by it. There is no punishment prescribed for treachery in Islam. But the disgrace one receives on the Day of Judgment is a sufficient punishment. Hence one should refrain from treachery.

2116. A Muslim ruler has been likened to a shield, for he protects Muslims from the enemy by concluding a treaty. He protects non-Muslims from any harm to them by giving them protection in Muslim territory. Therefore, a pact, alliance or a covenant made by a Muslim ruler should be fulfilled by Muslims too. They should respect his word.

2117. Abū Rāfi' was sent by the Quraish to the Prophet (may peace be upon him) as a messenger on the occasion of the treaty of al-Hudaibiyyah. When Abū Rāfi' came to the Muslim camp and saw the Prophet (may peace be upon him) he became a Muslim.

2118. The Prophet (may peace be upon him) did not detain him because he was required to give a reply to the Meccans for the message which he had brought to the Prophet (may peace be upon him) from them. The Prophet (may peace be upon him) asked him to conceal his Islam from the Quraish and then manifest it when he returns to Muslims,

2119. He was informed by al-Ḥasan b. 'Alī.

Abū Dāwūd said : This was valid in those days, but today it is not valid.<sup>2120</sup>

### *Chapter 1010*

#### IF THERE IS A COVENANT BETWEEN MUSLIMS AND THEIR ENEMY, CAN A MUSLIM RULER GO TOWARDS HIS COUNTRY ?

(2753) Sulaim b. 'Āmir, a man of Ḥimyar, said : There was a covenant between Mu'āwiyah and the Byzantines, and he was going towards their country, and when the covenant came to an end, he attacked them. A man came on a horse, or a pack-horse saying, Allah is Most Great, Allah is Most Great ; let there be faithfulness and not treachery.<sup>2121</sup> And when they looked they found that he was 'Amr b. 'Abasah. Mu'āwiyah sent for him and questioned him (about that). He said : I heard the Apostle of Allah (may peace be upon him) say : When one has covenant with people he must not strengthen or loosen it till its term comes to an end or he brings it to an end in agreement with them (to make both the parties equal). So Mu'āwiyah returned.

### *Chapter 1011*

#### ON FULFILLING A COVENANT WITH THE CONTRACTING PARTY AND RESPECT FOR PROTECTION GIVEN TO THEM

(2754) Abū Bakrah reported the Apostle of Allah (may peace be upon him) as saying : If anyone kills a man whom he grants protection pre-maturely, Allah will forbid him to enter Paradjse.<sup>2122</sup>

2120. The Prophet (may peace be upon him) concluded a treaty with the Quraish that he would return to them any Muslim who comes to him. Hence he did not detain Abū Rāfi'. But it is not necessary to send back a messenger who embraces Islam if there is no agreement between the two parties or countries.

2121. 'Amr b. 'Abasah thought it was an act of treachery to make a treaty while in one's country and then approach the enemy's country when the period of the treaty was near an end. This was designed to make an immediate attack as soon as the term came to an end, so that the enemy might not get any time for preparation. This is treachery and is not permissible in Islam. If one wishes to break the treaty, one should inform the enemy or the other party beforehand in clear words that the covenant is brought to an end henceforth one can attack the other. .

2122. If anyone grants security to a non-Muslim in Muslim territory, he should keep his word, and protect him till the term of agreement comes to an end. Before the end of the term, it is unlawful to do any harm to him.

*Chapter 1012*

## ON MESSENGERS

(2755) Nu'aim b. Mas'ūd said : I heard the Apostle of Allah (may peace be upon him) say when he read the letter of Musailimah : What do you believe yourselves ?<sup>2123</sup> They said : We believe as he believes. He said : I swear by Allah that were it not that messengers are not killed, I would cut off your heads.<sup>2124</sup>

(2756) Hārithah b. Muḍarrib said that he came to 'Abd Allah (b. Mas'ūd) and said (to him) : There is no enmity between me and any of the Arabs. I passed a mosque of Banū Ḥanīfah. They (the people) believed in Musailimah. 'Abd Allah (b. Mas'ūd) sent for them. They were brought, and he asked them to repent, except Ibn al-Mawwāḥah. He said to him : I heard the Apostle of Allah (may peace be upon him) say : Were it not that you were not a messenger, I would behead you. But to-day you are not a messenger. He then ordered Qarazah b. Ka'b (to kill him). He beheaded him in the market. Anyone who wants to see Ibn al-Nawwāḥah slain in the market (he may see him).

*Chapter 1013*

## ON A WOMAN GRANTING PROTECTION TO A NON-MUSLIM

(2757) Ibn 'Abbās said : Umm Hānī, daughter of Abū Ṭālib, told me that in the year of the conquest she gave protection to a man from the polytheists. She came to the Prophet (may peace be upon him) and mentioned it to him. He said : We have given security to those to whom you have given it.<sup>2125</sup>

(2758) 'Ā'ishah said : A woman would give security from the believers and it would be allowed.

*Chapter 1014*

## TO CONCLUDE A TREATY OF PEACE WITH ENEMY

(2759) Al-Miswar b. Makhramah said : The Apostle of Allah (may peace be upon

2123. Musailimah was a false prophet. He sent two messengers to the Prophet (may peace be upon him). Addressing these messengers he enquired from them about their belief. As they believed in the prophethood of Musailimah, the Prophet (may peace be upon him) became angry.

2124. This shows that it is not permissible to kill a messenger.

2125. Umm Hānī gave protection to a relative of her husband, but 'Alī wanted to kill him. The Prophet (may peace be upon him) approved her security and protected the life of her relative. All scholars are agreed that the protection given by a woman to a non-Muslim is valid. The same



him) came out in the year of al-Ḥudaiblyyah with over ten hundreds of Companions, and when he came to Dhū al-Ḥulaifah he garlanded and marked the sacrificial animals, and entered the sacred state of 'Umrah.<sup>2126</sup> He then went on with the tradition. The Prophet (may peace be upon him) moved on, and when he came to the mountain-pass by which one descends (to Mecca) to them, his riding-beast knelt down, and the people said twice: Go on, go on, al-Qaswā has become jaded. The Prophet (may peace be upon him) said: She has not become jaded, and that is not a characteristic of hers, but He Who restrained the elephant has restrained her.<sup>2127</sup> He then said: By Him in Whose hand my soul is, they will not ask me any good thing by which they honour which God has made sacred without my giving them it. He then urged her and she leaped up and he turned aside from them, and stopped at the farthest side of al-Ḥudaiblyyah at a pool with little water. Meanwhile Budail b. Warqa al-Khuza'i came, and 'Urwah b. Mas'ūd joined him. He began to speak to the Prophet (may peace be upon him). Whenever he spoke to the Prophet (may peace be upon him), he caught his beard. Al-Mughīrah b. Shu'bah was standing beside the Prophet (may peace be upon him). He had a sword with him, wearing a helmet. He (al-Mughīrah) struck his ('Urwah's) hand with the lower end of his sheath, and said: Keep away your hand from his beard. 'Urwah then raised his head and asked: Who is this? They replied: Al-Mughīrah b. Shu'bah. He said: O treacherous one! did I not use my offices in your treachery? In pre-Islamic days al-Mughīrah b. Shu'bah accompanied some people and murdered them, and took their property.<sup>2128</sup> He then came (to the Prophet) and embraced Islam. The Prophet (may peace be upon him) said: As for Islam we accepted it, but as to the property, as it has been taken by treachery, we have no need of it. He went on with the tradition. The Prophet (may peace be upon him) said: Write down: This is what Muḥammad, the Apostle of Allah, has decided. He then narrated the tradition. Suhail then said: And that a man will not come to you from us, even if he follows your religion, without your sending him back to us. When he finished drawing up the document, the Prophet (may peace be upon him) said to his Companions: Get up and sacrifice, and then shave. Thereafter some be-

view is held about a slave. But Abū Ḥanīfah distinguishes between a fighting and a non-fighting slave. He allows the security of a fighting slave. As for the security of a child, it is invalid because he is not accountable ('*Awṣ al-Ma'būd*, III, 39).

2126. That is, he put on the *iḥrām* for performing 'Umrah.

2127. This means that Allah restrained her from Mecca as He restrained the Elephant to enter it when Abrahah attacked Mecca.

2128. Al-Mughīrah b. Shu'bah went on a journey in the company of thirteen persons of Banū Thaqlif. He killed them and took their property. This happened on the way due to some quarrel. Banū Thaqlif disputed with 'Urwah who was al-Mughīrah's uncle. He settled the matter with great difficulty and paid the blood-money for thirteen men. This was an act of kindness which 'Urwah had done to al-Mughīrah in pre-Islamic days.

believing women who were immigrants came. (Allah sent down : O ye who believe, when believing women come to you as emigrants).<sup>2129</sup> Allah Most High forbade them to send them back, but ordered them to restore the dower. He then returned to Medina. Abū Baṣīr, a man from the Quraish (who was a Muslim), came to him. And they sent (two men) to look for him ; so he handed him over to the two men. They took him away, and when they reached Dhū al-Ḥulaifah and alighted to eat some dates which they had, Abū Baṣīr said to one of the men : I swear by Allah so-and-so, that I think this sword of yours is a fine one ; the other drew the sword, and said : Yes, I have tried it. Abū Baṣīr said : Let me look at it. He let him have it and he struck him till he died, whereupon the other fled and came to Medina, and running entered the mosque. The Prophet (may peace be upon him) said : This man has seen something frightful. He said : I swear by Allah that my companion has been killed, and I am as good as dead.<sup>2130</sup> Abū Baṣīr then arrived and said : Allah has fulfilled your covenant. You returned me to them, but Allah saved me from them. The Prophet (may peace be upon him) said : Woe to his mother, stirrer up of war ! Would that he had someone (i.e. some kinsfolk).<sup>2131</sup> When he heard that he knew that he would send him back to them, so he went out and came to the seashore. Abū Jandal escaped and joined Abū Baṣīr, till a band of them collected.<sup>2132</sup>

(2760) Al-Miswar b. Makhramah and Marwān b. al-Ḥakam said: They agreed to abandon war for ten years during which the people which have security, on the basis that there should be sincerity between them and that there should be not theft or treachery.

(2761) Ḥassān b. 'Aṭīyyah said : Makhḥūl and Ibn Zakarīyya went to Khālīd b. Ma'dān, and I also went along with them. He reported a tradition on the authority of Jubair b. Nufair. He said : Go with us to Dhū Mikhbar, a man from the Companions of the Prophet (may peace be upon him). We came to him and Jubair asked him about peace. He said : I heard the Apostle of Allah (may peace be upon him) say : You will make a secure peace with the Byzantines, then you and they will

2129. Qur'ān ix 10.

2130. Literally "and I am killed."

2131. This probably means that the Prophet (may peace be upon him) wished Abū Baṣīr might have had some relatives to whom he could go, and thus he might not return him to Mecca.

2132. It became the practice that every man of the Quraish who went out having accepted Islam joined Abū Baṣīr. Whenever they heard of a caravan which belonged to the Quraish going out to Syria they intercepted it, killed men and seized their goods. So the Quraish sent a message to the Prophet (may peace be upon him) adjuring him by Allah and the ties of relationship to send instructions to them to stop, and agreeing that anyone who came to him would be safe.

This shows that the Prophet (may peace be upon him) concluded a treaty of peace at al-Ḥudaibīyyah and fulfilled it to the last. The Quraish themselves could not keep their word, and were forced to break it.

fight an enemy behind you.<sup>2133</sup>

### Chapter 1015

#### ON SURPRISE APPROACH TO ENEMY AND THEIR IMITATION

(2762) Jābir reported : The Apostle of Allah (may peace be upon him) said : Who will pursue Ka'b b. al-Ashraf,<sup>2134</sup> for he has caused trouble to Allah and His Apostle ? Muḥammad b. Maslamah stood up and said : I (shall do), Apostle of Allah. Do you want that I should kill him ? He said : Yes. He said : So permit me to say something (against you). He said : Yes, say. He then came to him (Ka'b b. al-Ashraf) and said to him : This man (the Prophet) has asked us for *sadaqah* (alms) and has put us into trouble. He (Ka'b) said : You will be more grieved. He (Muḥammad b. Maslamah) said : We have followed him, and we do not like to forsake him until we see what will be the consequence of his matter. We wished if you could lend us one or two wasqs. Ka'b said : What will you mortgage with me ? He asked : What do you want from us ? He replied : Your women. They said : Glory be to Allah : You are the most beautiful of the Arabs. If we mortgage our women with you, that will be a disgrace for us. He said : Then mortgage your children. They said : Glory be to Allah, a son of us may abuse saying : You were mortgaged for one or two wasqs. They said : We shall mortgage our coat of mail with you. By this he meant arms. He said : Yes. When he came to him, he called him, and he came out while he used perfume and his head was spreading fragrance. When he sat with him, and he came there accompanied by three or four persons who mentioned his perfume. He said : I have such-and-such woman with me. She is most fragrant of the women among the people. He (Muḥammad b. Maslamah) asked : Do you permit me so that I may smell ? He said : Yes. He then entered his hand through his hair and smelt it. He said : May I repeat ? He said : Yes. He again entered his hand through his hair. When he got his complete control, he said : Take him. So they struck him until they killed him.<sup>2135</sup>

2133. This shows that a Muslim can make a peace with the people of the Book, and fight together their enemy.

The full tradition has been mentioned by Abū Dāwūd in *Fitan*.

2134. Ka'b b. al-Ashraf was a chief of the Jews. He was a fatal enemy of the Prophet (may peace be upon him). He used to satire him and instigate the people against him. The Prophet (may peace be upon him) resolved to kill him in view of his conspiracy against Islam and the Muslims. He deputised Muḥammad b. Maslamah and some Muslims to assassinate him. They killed him surprisingly.

2135. There is a difference of opinion amongst scholars whether assassination of the enemy by surprise attack is permissible or not. A group maintains that it is allowed as the Prophet (may

(2763) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Faith prevented assassination. A believer should not assassinate.<sup>2136</sup>

### Chapter 1016

#### ON SAYING "ALLAH IS MOST GREAT" WHILE GOING ON EVERY RISING PIECE OF GROUND

(2764) 'Abd Allah b. 'Umar said : When the Apostle of Allah (may peace be upon him) returned from an expedition, *Hajj* or *'Umrāh*, on every rising piece of ground he would say three times : "Allah is Most Great,"<sup>2137</sup> and he would say : There is no god but Allah alone Who has no partner, to Whom the dominion belongs, to Whom praise is due, and Who is Omnipotent, serving, prostrating ourselves before our Lord, and expressing praise. Allah alone has kept His word, helped His servant, and routed the confederate.<sup>2138</sup>

### Chapter 1017

#### PERMISSION FOR RETURNING FROM BATTLE AFTER IT HAD BEEN PROHIBITED

(2765) Ibn 'Abbās said : The verse "Those who believe in Allah and the Last Day ask thee for no exemption from fighting with their goods and persons"<sup>2139</sup> was abrogated by the verse "Only those are believers who believe in Allah and His Apostle. . . . For Allah is Oft-Forgiving, Most Merciful."<sup>2140</sup>

peace be upon him) had done with Ka'b b. al-Ashraf. Others hold that assassination of the enemy is not permissible. They argue on the basis of the tradition of Abū Hurairah which forbids assassination.

2136. *Fath* means to assassinate a person treacherously after giving him protection. This is not allowed. If a Muslim gives security to an unbeliever he should keep his word and protect him till the term of the pact comes to an end. As regards the assassination of Ka'b b. al-Ashraf, it may be noted that the Prophet (may peace be upon him) did not give him any protection. As he was a great conspirator, and was doing harm to the cause of Islam, he was assassinated. This sort of assassination does not fall under the prohibition of *fath*.

2137. It is commendable to utter three times, "Allah is Most Great" while ascending a rising piece of ground.

2138. This refers to the siege of Medina in 5 A.H. when a trench was dug in the battle as a protection.

2139. Qur'an, ix. 44.

2140. Qur'an, xxiv. 62. In the early days of Islam the hypocrites participated in the battle, but returned to their homes after taking permission from the Prophet (may peace be upon him). This weakened the position of the Muslims in the battle. Hence it was prohibited to come back from

## Chapter 1018

## ON SENDING A MAN FOR GIVING GOOD TIDINGS

(2766) Jarīr (b. 'Abd Allah) said : The Apostle of Allah (may peace be upon him) said to me : Why do you not give me rest from Dhū al-Khalaṣah ?<sup>2141</sup> He went there and burned it. He then sent a man from Aḥmaṣ<sup>2142</sup> to the Prophet (may peace be upon him) to give him good tidings. His surname was Arṭāh.<sup>2143</sup>

## Chapter 1019

## ON GIVING SOMETHING TO A MAN WHO BRINGS GOOD TIDINGS

(2767) Ka'b b. Mālik said : When the Prophet (may peace be upon him) arrived from a journey, he first went to the mosque, where he prayed two *rak'ahs*, after which he sat in it and gave audience to the people. The narrator Ibn al-Sarḥ then narrated the rest of the tradition. He said : The Apostle of Allah (may peace be upon him) forbade the Muslims to speak to any three of us.<sup>2144</sup> When considerable time had passed on me, I ascended the wall of Abū Qatādah who was my cousin. I saluted him, but, I swear by Allah, he did not return my salutation. I then offered the dawn prayer on the fiftieth day on the roof of one of our houses. I then heard a crier say : Ka'b b. Mālik, have good news. When the man whose voice I heard came to me giving me good news, I took off my garments and clothed him. I went on till I entered the mosque. The Apostle of Allah (may peace be upon him) was sitting there. Ṭalḥah b.

battle after seeking permission from the Prophet (may peace be upon him). But later on when Muslims became strong, this commandment was repealed. They were allowed to come back from the battle under certain necessity or on certain valid ground after taking permission from the Prophet (may peace be upon him) (xxxiv. 62).

2141. Dhū al-Khalaṣah was the idol of Daws which they worshipped in the pre-Islamic period. It is also said that Dhū al-Khalaṣah was the name of the house in which the idol was placed. Some scholars are of opinion that al-Khalaṣah was the name of the house, and Dhū al-Khalaṣah was the name of the idol. It was the idol of Banū Khath'am known as al-Ka'bah al-Yamaniyyah (Ka'bah of the Yemen).

2142. Aḥmaṣ is the name of a tribe. It is said that Aḥmaṣ (brave) was applied to Quraysh, Kinānah and Jadilah of Qais for the hardships they underwent in pre-Islamic days.

2143. His name was Ḥuṣayn b. Rabī'ah.

2144. Ka'b b. Mālik, Hilāl b. Umayyah, and Murārah b. al-Rabī' remained behind from the battle of Tabūk without any valid reason. When the Prophet (may peace be upon him) returned from the battle, they went to him and told him the fact. The Prophet (may peace be upon him) asked them to wait till revelation came down for their forgiveness. He also asked the Muslims to boycott them and prohibited them to speak to them.



'Ubaid Allah stood up and hastened to me till he shook hands with me and greeted me.<sup>2145</sup>

### Chapter 1020

#### PROSTRATION IN GRATITUDE

(2768) Abū Bakrah said that when anything came to the Prophet (may peace be upon him) which caused pleasure (or, by which he was made glad), he prostrated himself in gratitude to Allah.<sup>2146</sup>

(2769) Sa'd (b. Abī Waqqāṣ) said: We went out with the Apostle of Allah (may peace be upon him) from Mecca making for Medina, and when we were near 'Azwarā',<sup>2147</sup> he alighted, then raised his hands,<sup>2148</sup> and made supplication to Allah for a time, after which he prostrated himself, remaining a long time in prostration. Then he stood up and raised his hands for a time, after which he prostrated himself, remaining a long time in prostration. He then stood up and raised his hands for a time, after which he prostrated himself. Aḥmad mentioned it three times. He then said: I begged my Lord and made intercession for my people, and He gave me a third of my people, so I prostrated myself in gratitude to my Lord. Then I raised my head and begged my Lord for my people, and He gave me a third of my people, so I prostrated myself in gratitude to my Lord. Then I raised my head and begged my Lord for my people and He gave me the last third, so I prostrated myself in gratitude to my Lord.

Abū Dāwūd said: When Aḥmad b. Ṣāliḥ narrated this tradition to us, he omitted the name of Ash'ath b. Ishāq, but Mūsā b. Sahl al-Ramlī narrated it to us through him.

2145. The verse "Then he turned to them, that they might repent" (ix, 118) came down for the acceptance of their repentance. The Prophet (may peace be upon him) was pleased with Ka'b who visited him. He asked him permission to spend all his property in gratitude to Allah, but he forbade him.

This also shows that it is commendable to give some gift to a man who brings glad tidings as Ka'b had done.

2146. Al Shāfi'i and Aḥmad hold that prostration for thanksgiving is legally valid. Mālik does not take it as legal. Abū Ḥanīfah thinks that it is neither disapproved nor commendable. According to some scholars, ablution is necessary for this prostration, and, according to others, ablution is not necessary. Ibn Qayyim said in *Zād al-Ma'ād*: It appears from the prostration made by Ka'b b. Mālik that it was customary among the Companions to make prostration when they got good tidings. Abū Bakr made this prostration when he was informed about the murder of Musailimah. 'Alī prostrated when he found Dhū al-Thadyah slain among the Khwārij. The Prophet (may peace be upon him) also prostrated several times on such occasions (*'Awn al-Ma'būd*, III, 44).

2147. 'Azwarā' is the name of a pass in al-Juhfah on the way from Mecca to Medina.

2148. This shows that it is commendable to raise hands while making supplication to Allah.

## Chapter 1021

### ON COMING TO ONE'S FAMILY DURING THE NIGHT AFTER RETURNING FROM A JOURNEY

(2770) Jābir b. 'Abd Allah said: The Apostle of Allah (may peace be upon him) disapproved that a man should come to his family during the night (after returning from a journey).<sup>2149</sup>

(2771) Jābir reported the Prophet (may peace be upon him) as saying: The best time for a man to go in to his family on return from a journey is at the beginning of the night.<sup>2150</sup>

(2772) Jābir b. 'Abd Allah said: We were on a journey with the Apostle of Allah (may peace be upon him). When we were going to come to our family, he said: Stay till we enter during the night,<sup>2151</sup> so that the dishevelled woman combs herself and the woman whose husband has been away cleans herself.<sup>2152</sup>

Abū Dāwūd said: Al-Zuhri said: (This prohibition applies) when one arrives after the night prayer.

Abū Dāwūd said: There is no harm in coming (to one's family) after the sunset prayer.

2149. There are several reasons for the prohibition of coming to one's family during the night. First, the people are generally asleep at night, and they are annoyed when someone comes at night. Secondly, the people might take him for a thief, and thus do harm to him. Thirdly, in case a man comes suddenly to his family, his wife does not get time for decoration. She might be in dirty clothes which may cause hatred towards her. Fourthly, some women are corrupt and have their hidden liaison. If their illicit connection is known to their husbands, their position will be critical. Hence the Prophet (may peace be upon him) forbade to come to one's family at night in the late hours after return from a journey.

2150. This shows that a man may come to his family in the early hours of the night after arriving from a journey. This is a time when the people have not yet gone to sleep.

2151. The Prophet (may peace be upon him) arrived from a journey in the day and stayed outside the city. He informed the people of his arrival from the journey. He entered the city at night, and thus provided some margin to the women for preparation.

2152. It may be noted that it is allowable to come to one's family after the sunset prayer, but not after the night prayer in the late hours when the people are asleep. Moreover, it is disapproved that a person who has been away on journey for a long time comes all of a sudden to his family at night. In case the journey is short, and the wife is expecting him to return, there is no harm in coming at night. If a man accompanies an army, and its arrival is announced beforehand, and all the people are aware of the date of its arrival then there is no harm in coming at any time to his family ('*Awā al-Ma'būd*, III, 45).

*Chapter 1022*RECEPTION OF A TRAVELLER WHEN HE RETURNS  
FROM A JOURNEY

(2773) Al-Sā'ib b. Yazīd said: When the Prophet (may peace be upon him) returned from the battle of Tabūk to Medina, the people received him; I met him along with the children at Thanīyyat al-Wadā'.<sup>2153</sup>

*Chapter 1023*DESIRABILITY OF SPENDING OUT ALL THE GOODS IN THE  
BATTLE BY A WARRIOR WHEN HE RETURNS

(2774) Anas b. Mālik said: A youth of Aslam<sup>2154</sup> said: Apostle of Allah, I wish to go on an expedition, but I have no property to make myself equipped. He said: Go to so-and-so *Anṣārī*, who prepared equipment (for the battle), but he fell ill, and tell him that the Apostle of Allah (may peace be upon him) has conveyed his regards to you, and then tell him: Give him all the equipment you have made. He came to him and told him that. He said to his wife: O so-and-so, give him all the equipment I have made, and do not detain anything from him. I swear by Allah, if you detain anything from him, Allah will not bless it.<sup>2155</sup>

*Chapter 1024*

## ON OFFERING PRAYER ON RETURN FROM A JOURNEY

(2775) Ka'b b. Mālik said: The Prophet (may peace be upon him) used to arrive from a journey in the daytime: al-Ḥasan said: during the forenoon. When he arrived from a journey he went first to the mosque where he prayed two *rak'ahs*, after which

2153. Thanīyyah is a mountain pass. Thanīyyat al-Wadā' refers to a pass by which people went on the road to Mecca. It overlooks Medina.

This tradition indicates that it is recommended to receive a man who is returning home from his journey. The people used to receive the Prophet (may peace be upon him) when he returned from a journey.

2154. The name of a tribe.

2155. This shows that if a man cannot go to a battle after preparation, he may give his equipment to one who is going to the battle but has no equipment. Further, if the equipment of a warrior is exhausted in the battle, others may give him their equipment, and thus spend all the equipment in the battle. The chapter heading established by Abū Dāwūd is based on an analogy drawn from this tradition.

he sat in it and gave audience to the people.<sup>2156</sup>

(2776) Ibn 'Umar said: When the Apostle of Allah (may peace be upon him) arrived from his *Hajj*, he entered Medina, and made (his camel) kneel down at the gate of his mosque; and he entered it and offered two *rak'ahs* of prayer; he then returned to his home. Nāfi' said: Ibn 'Umar also used to do so.

### Chapter 1025

#### WAGES OF A DISTRIBUTOR OF BOOTY

(2777) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying: Beware of the wages of a distributor of booty (*qusāmah*). We asked: What is *qusāmah* (wages of a distributor)? He said: It means a thing which is shared by the people, and then it is reduced.<sup>2157</sup>

(2778) 'Aṭā' b. Yasār reported a similar tradition from the Prophet (may peace be upon him). This version adds: A man is appointed on groups of people, and takes (wages) from the share of this, and from the share of this.<sup>2158</sup>

### Chapter 1026

#### ON TRADING DURING BATTLE

(2779) 'Ubaid Allah b. Salmān reported on the authority of a man from the Companions of the Prophet (may peace be upon him): When we conquered Khaibar, they (the people) took out their spoils which contained equipment and captives. The people began to buy and sell their spoils. When the Apostle of Allah (may peace be upon him) prayed, a man came to him and said: Apostle of Allah, I have gained today so much so that no one gained from this valley. He asked: Woe unto you, how much did you gain? He replied: I kept on selling and buying until I gained three hundred *ūqiyahs*.<sup>2159</sup> The Apostle of Allah (may peace be upon him) said: I tell you a man who gained better than you. He asked: What is that, Apostle of Allah? He replied! Two

2156. It is advisable to offer two *rak'ahs* of prayer in the mosque after returning from a journey. After praying two *rak'ahs* in the mosque one may go to one's family. It is also commendable to pray two *rak'ahs* at home before setting on a journey.

2157. This tradition indicates that taking wages from the booty by a distributor without the consent of the share-holders is forbidden. If a Muslim ruler or the commander of an army gives him some wages with the consent of the people, there is no harm.

2158. This shows the prohibition of taking wages from the booty on account of distribution without the consent of the people.

2159. An *Uqiyah* is equivalent to forty dirhams. The total amount of three hundred *ūqiyahs* is Rs. 3,000.

*rak'ahs* (of supererogatory prayer) after the (obligatory) prayer.<sup>2160</sup>

### Chapter 1027

#### ON CARRYING WEAPONS TO ENEMY TERRITORY

(2780) Dhū al-Jaushan,<sup>2161</sup> a man of al-Ḍabāb,<sup>2162</sup> said : When the Prophet (may peace be upon him) became free from the people of Badr I brought to him a colt of my mare called al-Qarḥā'. I said : Muḥammad, I have brought a colt of al-Qarḥā', so that you may take it. He said : I have no need of it. If you wish that I give you a select coat of mail from (the spoils of) Badr, I shall do it.<sup>2163</sup> I said : I cannot give you today a colt in exchange. He said : Then I have no need of it.

### Chapter 1028

#### SETTLEMENT IN ENEMY TERRITORY

(2781) Samurah b. Jundub said : To proceed, the Apostle of Allah (may peace be upon him) said : Anyone who associates with a polytheist and lives with him is like him.<sup>2164</sup>

2160. This tradition shows that trading during battle is permissible. It is also permissible during *Hajj*.

2161. According to various reports, the name of Dhū al-Jaushan is disputed ; it is either Anas, or Sharāḥbīl or 'Uthmān.

2162. The name of a tribe.

2163. Dhū al-Jaushan was not a Muslim. The Prophet (may peace be upon him) wanted to give him a coat of mail. This shows that it is allowed to carry weapons from Muslim territory to enemy territory.

2164. This tradition indicates that Muslims should not have company with the polytheists. It is advisable to avoid making friends with them. Further, it also implies that Muslims should migrate to Muslim territory if possible.



## IX. KITĀB AL-ḌAḤĀYĀ'

### [ BOOK OF SACRIFICE ]

#### Chapter 1029

#### ON THE OBLIGATION OF SACRIFICE

(2782) Mikhnaf b. Sulaim said: We were staying with the Apostle of Allah (may peace be upon him) at 'Arafāt; he said: O people, every family must offer a sacrifice<sup>2165</sup> and an '*atīrah*'.<sup>2166</sup> Do you know what the '*atīrah*' is? It is what you call the Rajab sacrifice.

Abū Dāwūd said: '*Atīrah*' has been abrogated, and this tradition is an abrogated one.

(2783) 'Abd Allah b. 'Amr b. al-'Āṣ reported the Prophet (may peace be upon him) as saying: I have been commanded to celebrate festival ('Īd) on the day of sacrifice, which Allah, Most High, has appointed for this community. A man said: If I do not find except a she-goat or a she-camel borrowed for milk or other benefits, should I sacrifice it? He said: No, but you should clip your hair, and nails, trim your moustaches, and shave your pubes. This is all your sacrifice in the eyes of Allah, Most High.<sup>2167</sup>

2165. This tradition indicates that the sacrifice is obligatory. There is a difference of opinion amongst scholars about the obligatoriness of sacrifice. According to the majority of scholars, it is commendable and not obligatory. Abū Ḥanīfah holds that it is obligatory. In the opinion of Muḥammad b. al-Ḥasan, it is obligatory on the sick. According to al-Khaṭṭābī, this tradition is weak. The narrator Abū Ramlah is obscure.

2166. '*Atīrah*' was a practice of sacrificing a sheep or goat in Rajab. This was a practice of the idolatrous pre-Islamic Arabs. It is said that '*atīrah*' was continued in the early days of Islam and then abolished.

2167. This tradition indicates that sacrifice is incumbent on a person who can afford. It is not incumbent on the poor. This view is held by a group of scholars. According to al-Shāfi'ī and the majority of scholars, sacrifice is highly recommended (*sunnah mu'akkadah*) to be performed collectively. According to Abū Ḥanīfah and Mālik, it is incumbent on a resident who is rich. Aḥmad holds that it is disapproved to abandon sacrifice if a man has power. Muḥammad b. al-Ḥasan thinks it is recommended (*sunnah*) and no concession can be given to abandon it.

Al-Ṭahāwī observes: "We follow this view" ('*Awn al-Ma'būd*, III, 50).

*Chapter 1030***SACRIFICE ON BEHALF OF A DECEASED PERSON**

(2784) Ḥanash said : I saw 'Alī sacrificing two rams ; so I asked him : What is this ? He replied. The Apostle of Allah (may peace be upon him) enjoined upon me to sacrifice on his behalf, so that is what I am doing.<sup>2168</sup>

*Chapter 1031***ON A MAN WHO SHAVES HIS HAIR DURING THE FIRST TEN DAYS OF DHŪ AL-ḤIJJAH WHILE HE INTENDS TO SACRIFICE**

(2785) Umm Salamah reported the Apostle of Allah (may peace be upon him) as saying : If anyone has sacrificial animal and intends to sacrifice it, and he sights the new moon of Dhū al-Ḥijjah, he must not take any of his hair and nails until he sacrifices.<sup>2169</sup>

Abū Dāwūd said : The name 'Amr b. Muslim in the chain narrated by Mālik and Muḥammad b. 'Amr is disputed. Some say that it is 'Umar and the majority holds that it is 'Amr.

Abū Dāwūd said : He is 'Amr b. Muslim b. Ukaimah al-Laithī al-Jundu'ī.

*Chapter 1032***THE SACRIFICIAL ANIMALS THAT ARE RECOMMENDED**

(2786) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) ordered a horned ram with black legs, black belly and black round the eyes, and it was brought for him to sacrifice. He said : 'Ā'ishah, get the knife, then he said : Sharpen it with

2168. There is a difference of opinion amongst scholars about sacrificing on behalf of the deceased. Some allow it and others disallow. The arguments allowing it are stronger than those denying it. The Prophet (may peace be upon him) himself is reported to have sacrificed on behalf of the community.

2169. This shows that if a man intends to sacrifice an animal on the tenth of Dhū al-Ḥijjah, he should not take his hair and nails during the first ten days. He should do so after offering sacrifice. Taking hair and nails during the first ten days of Dhū al-Ḥijjah before sacrificing is forbidden according to Sa'īd b. al-Musayyab, Rabī'ah, Aḥmad, Ishāq and Dāwūd. Al-Shāfi'ī holds that it is disapproved and not forbidden. Abū Ḥanīfah maintains that it is not even disapproved. According to one report, Mālik does not take it as disapproved, and, according to another report, he thinks it disapproved. He is also reported to have held it forbidden in case the sacrifice is voluntary ('Awn al-Ma'būd, III, 51).

a stone. So I did. He took it, then taking the ram he placed it on the ground and slaughtered it. He then said : In the name of Allah. O Allah, accept it for Muḥammad, Muḥammad's family and Muḥammad's people. Then he sacrificed it.<sup>2170</sup>

(2787) Anas said : The Prophet (may peace be upon him) sacrificed seven camels standing with his own hand, and sacrificed at Medina two horned rams which were white with black markings.

(2788) Anas said : The Prophet (may peace be upon him) sacrificed two horned rams which were white with black markings, slaughtered, and uttered : "Allah is Most Great," and mentioned Allah's name and placed his foot on their sides.

(2789) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) sacrificed two horned rams which were white with black markings and had been castrated. When he made them face the *qiblah*, he said : I have turned my face towards Him Who created the heavens and the earth, following Abraham's religion, the true in faith, and I am not one of the polytheists. My prayer, and my service of sacrifice, my life and my death are all for Allah, the Lord of the Universe, Who has no partner. That is what I was commanded to do, and I am one of the Muslims. O Allah it comes from Thee and is given to Thee from Muḥammad and his people.<sup>2171</sup> In the name of Allah, and Allah is Most Great.<sup>2172</sup> He then made sacrifice.

(2790) Abū Sa'īd said : The Apostle of Allah (may peace be upon him) used to sacrifice a choice, horned ram with black round the eyes, the mouth and the feet.

### Chapter 1033

#### ON THE AGE OF THE SACRIFICIAL ANIMALS

(2791) Jābir reported the Apostle of Allah (may peace be upon him) as saying : Sacrifice only a full-grown animal<sup>2173</sup> unless it is difficult for you, in which case sacri-

2170. Scholars are agreed that the animal should be placed on the ground on the left side, and the knife should be sharpened.

2171. To recite this supplication before sacrificing the animal is commendable.

2172. It is obligatory to utter the name of Allah while slaughtering the animal. The face of the animal should be turned towards the *qiblah*.

2173. *Musinnah* (a full-grown animal) applies to a camel which has completed its five years and is in its sixth year, to a cow, ox or a buffalo which has completed its two years and is in its third year, to a goat or lamb which has completed its one year and is in its second year. It is necessary that the animal should be full-grown in all its categories. There is, however, an exception in the case of a lamb. If a fullgrown lamb is not available, a lamb which is more than six months of age, and less than one year, is sufficient. But this is peculiar to a lamb. It is not applicable to a goat.

There is a difference of opinion on the age of the lamb (*jadha'ah*). According to Shāfi'is, it applies to a lamb which has completed its one year and is in its second year. According to the Hanafis and the Hanbalis, it is of six months. A third view says that it is of seven months. A fourth

fice a lamb.

(2792) Zaid b. Khālid al-Juhānī said : The Apostle of Allah (may peace be upon him) distributed sacrificial animals among his Companions. He gave me a kid (of less than a year). I took it to him and said : This is a kid. He said : Sacrifice it. So I sacrificed it.<sup>2174</sup>

(2793) 'Āṣim b. Kulaib reported on the authority of his father : We were with a man from the Companions of the Prophet (may peace be upon him) called Mujāshi' who belonged to Banū Sulaim. There was a scarcity of goats (in those days). He commanded a man to announce (among the people) ; so he announced that the Apostle of Allah (may peace be upon him) used to say : A lamb may be given as full payment for that for which a full-grown animal is payment.<sup>2175</sup>

Abū Dāwūd said : His name is Mujāshi' b. Mas'ūd.

(2794) Al-Barā' b. 'Āzib said : The Apostle of Allah (may peace be upon him) delivered a sermon to us on the day of sacrifice after the prayer. He said : If anyone prays like our prayer, and sacrifices like our sacrifice, his sacrifice is all right. If anyone sacrifices before the prayer (for 'Id), that is a goat meant for flesh. Abū Burdah b. Niyār stood up and said : Apostle of Allah, I swear by Allah, I sacrificed before I went for prayer.<sup>2176</sup> I thought it was the day of eating and drinking ; so I made

view goes that it is of six or seven months. According to another view, it is of eight or ten months. This tradition also indicates that a lamb of six months (*jadha'ah*) is sufficient when a full-grown animal is not found. But al-Nawawī observes that it is agreed upon by all scholars that a lamb of six months or more is sufficient even in the presence of a full-grown animal. This tradition has, therefore, been interpreted as containing an injunction which is recommended (*Awn al-Ma'būd*, III, 53).

2174. The Prophet (may peace be upon him) allowed as an exceptional case only a lamb of less than one year, and not a kid. In this tradition he allowed a kid of less than one year. Scholars differ among themselves about this tradition. There is another tradition narrated by 'Uqbah b. 'Āmir al-Juhānī recorded in the collections of al-Bukhārī and Muslim. It says : The Prophet (may peace be upon him) gave him ('Uqbah b. 'Āmir) some goats to divide among his friends, and a yearling remained over. He mentioned it to him. He said : Sacrifice it yourself. Another version of this tradition adds the words : "There is no concession for anyone about this after you." The Prophet (may peace be upon him) also allowed Abū Burdah b. Niyār to sacrifice a kid of less than one year. These were exceptional cases. Therefore, the tradition of Zaid b. Khālid will be interpreted as an exceptional case, peculiar to Zaid b. Khālid. Some scholars hold that the tradition of 'Uqbah has been repealed. But this is not correct, as this tradition has the words : "No one is allowed to do so after you" (*Awn al-Ma'būd*, III, 53-54).

2175. This means that a lamb of less than one year (or a yearling) is sufficient for sacrifice like a full-grown animal. This exception of age was given by the Prophet (may peace be upon him) only in the case of lamb and not in case of all other animals.

2176. There is a difference of opinion amongst scholars on the time of sacrifice on the day of 'Id. The majority of scholars hold that sacrifice is not valid until the *imām* (i.e. the Muslim ruler) prays. Some opine that one should sacrifice when the *imām* comes back after praying. Others think that one can sacrifice after the sacrifice of the *imām*. Al-Shāfi'i says that the time of sacrifice is

haste, and ate myself, and supplied flesh to my family and neighbours. The Apostle of Allah (may peace be upon him) said : That is a goat meant for eating flesh. He said : I have a kid (of less than a year) which is better than two goats meant for flesh. Will it be valid from me ? He said : Yes, but it will not be valid for anyone after you.<sup>2177</sup>

(2795) Al-Barā' b. 'Āzib said : A maternal uncle of mine called Abū Burdah sacrificed before the prayer (for 'Īd). The Apostle of Allah (may peace be upon him) said : Your goat is meant for flesh.<sup>2178</sup> He said : Apostle of Allah, I have a domestic kid with me. He said : Sacrifice it, but it is not valid for any man other than you.<sup>2179</sup>

### Chapter 1034

#### DISAPPROVED SACRIFICIAL ANIMALS

(2796) 'Ubaid b. Fīrūz said : I asked al-Barā' b. 'Āzib : What should be avoided in sacrificial animals ? He said : The Apostle of Allah (may peace be upon him) stood among us, and my fingers are smaller than his fingers, and my fingertips are smaller than his fingertips. He said (pointing with his fingers) : Four (types of animals) should be avoided in sacrifice : A one-eyed animal which has obviously lost the sight of one eye, a sick animal which is obviously sick, a lame animal which obviously limps and an animal with a broken leg with no marrow. I also detest an animal which has defective teeth. He said : Leave what you detest, but do not make it illegal for anyone.<sup>2180</sup>

Abū Dāwūd said : (By a lean animal is meant) an animal which has no marrow.

(2797) Yazīd Dhū Miṣr said : I came to 'Utbah b. 'Abd al-Sulamī and said :

when the sun rises a little in the sky and the *imām* finishes his prayer, and delivers two sermons. It is agreed that sacrifice is not valid before sunrise. This tradition also shows that sacrifice is not valid before the prayer for 'Īd in the city where a man is offering the sacrifice.

2177. This is an exceptional case. Sacrifice of a kid of less than one year is not valid as a general rule. The Prophet (may peace be upon him) allowed Abū Burdah b. Niyār as a special case. The sacrifice of a lamb of less than one year has been allowed by the Prophet (may peace be upon him), but this does not apply to other animals.

2178. This means that the sacrifice is not valid and Abū Burdah will have no reward for sacrifice.

2179. This shows that the permission for sacrificing a kid was peculiar to Abū Burdah. This was not a general permission. It is necessary that a goat must have completed one year and is in its second year. The sacrifice of a small kid is not valid.

2180. It is unanimously agreed that an animal which has one of these four defects is not valid for sacrifice. Further, this tradition shows that an ordinary defect is negligible, as the Prophet (may peace be upon him) has made it clear in this tradition. The defects must be obvious.



Abū al-Walīd, I went out seeking sacrificial animals. I did not find anything which attracted me except an animal whose teeth have fallen. So I abominated it. What do you say (about it)? He said: Why did you not bring it to me? He said: Glory be to Allah: Is it lawful for you and not lawful for me? He said: Yes, you doubt and I do not doubt. The Apostle of Allah (may peace be upon him) has forbidden an animal whose ear has been uprooted so much so that its hole appears (outwardly), and an animal whose horn has broken from the root, and an animal which has totally lost the sight of its eyes, and an animal which is so thin and weak that it cannot go with the herd, and an animal with a broken leg.<sup>2181</sup>

(2798) 'Alī said: The Apostle of Allah (may peace be upon him) enjoined upon us to pay great attention to the eye and both ears, and not to sacrifice a one-eyed animal, and an animal with a slit which leaves something hanging at the front or back of the ear, or with a lengthwise slit with a perforation in the ear. I asked Abū Ishāq: Did he mention an animal with broken horns and uprooted ears? He said: No.<sup>2182</sup>

(2799) 'Alī said: The Prophet (may peace be upon him) prohibited to sacrifice an animal with a slit ear and broken horn.

Abū Dāwūd said: The narrator Jurayy (b. Kulaib) is Sadūsī, and belongs to Baṣrah. No one narrated traditions from him except Qatādah.

(2800) Qatādah said: I asked Sa'īd b. al-Musayyab: What is meant by an animal with a slit ear and broken horn? He replied: Half and more than half.<sup>2183</sup>

### Chapter 1035

#### HOW MANY PERSONS CAN SHARE A COW AND A CAMEL IN SACRIFICE?

(2801) Jābir b. 'Abd Allah said: We performed *tamattu'*<sup>2184</sup> during the lifetime of the Apostle of Allah (may peace be upon him), sacrificed a cow for seven and a

2181. In this tradition the Prophet (may peace be upon him) pointed out the obvious defects in sacrificial animals. If these defects are not found in an animal, it is lawful to sacrifice it. Further, it also implies that one should not doubt the fitness of the animal without any reason.

2182. In case the horn is broken less than a half, the sacrifice is valid. If it is broken half or more than a half, the sacrifice is not valid. The same applies to ear and legs and other defects. Mālik disallows an animal with broken horn, how much it may be.

2183. This means that if a horn is broken less than half, or an ear is slit less than half, the sacrifice is valid. This will not be considered a defect.

2184. *Tamattu'* means to perform 'Umrah during the days of Ḥajj and then take off *iḥrām*; then after a break of some days Ḥajj is performed by wearing *iḥrām* afresh with the intention of Ḥajj.

camel for seven people. We shared them.<sup>2185</sup>

(2802) Jābir b. 'Abd Allah reported the Prophet (may peace be upon him) as saying: A cow serves for seven, and a camel serves for seven.

(2803) Jābir b. 'Abd Allah said: We sacrificed along with the Apostle of Allah (may peace be upon him) at al-Ḥudaibīyyah a camel for seven and a cow for seven people.

### Chapter 1036

#### ON A GOAT SACRIFICED FOR A BODY

(2804) Jābir b. 'Abd Allah said: I witnessed sacrificing along with the Apostle of Allah (may peace be upon him) at the place of prayer. When he finished his sermon, he descended from his pulpit, and a ram was brought to him. The Apostle of Allah (may peace be upon him) slaughtered it with his hand, and said: In the name of Allah, Allah is Most Great. This is from me and from those who did not sacrifice from my community.<sup>2186</sup>

### Chapter 1037

#### A MUSLIM RULER SHOULD SACRIFICE AT THE PLACE OF PRAYER

(2805) Ibn 'Umar said: The Prophet (may peace be upon him) used to slaughter his sacrificial animal at the place of prayer. Ibn 'Umar himself used to do so.<sup>2187</sup>

### Chapter 1038

#### ON STORING UP THE MEAT OF SACRIFICE

(2806) 'Ā'ishah said: Some people of desert came at the time of sacrifice in the

2185. It is agreed that a cow can be sacrificed for seven persons. But there is a difference of opinion about a camel. According to al-Shāfi'ī, Abū Ḥanīfah and the majority of scholars, a camel serves for seven. Ishāq b. Rāhwaiḥ and Ibn Khuzaimah hold that it serves for ten people. This view is based on the tradition of Ibn 'Abbās which says that ten people shared a camel. However, the majority opinion is that a camel serves for seven (*'Awn al-Ma'būd*, III, 56).

2186. This shows that a goat serves for a man and his family. A number of traditions indicate that people used to sacrifice a goat for themselves and for their families in the lifetime of the Prophet (may peace be upon him). This view is held by Mālik, al-Shāfi'ī, Aḥmad, al-Auzā'ī and Ishāq b. Rāhwaiḥ. Abū Ḥanīfah and al-Thawrī disapprove it. In their opinion one goat serves for one man only (*'Awn al-Ma'būd*, III, 56-57).

2187. It is commendable to sacrifice at the place of prayer. According to Mālik, it is commendable (*sunnaḥ*) for a Muslim ruler to sacrifice at the place of prayer.

time of the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) said : Store up for three days<sup>2188</sup> and give the rest as *ṣadaqah* (alms). After that the people said to the Apostle of Allah (may peace be upon him) Apostle of Allah, the people used to benefit from their sacrifices, take and dissolve fat from them, and make water-bags (from their skins). The Apostle of Allah (may peace be upon him) said : What is that ? or whatever he said : They said : Apostle of Allah, you have prohibited to preserve the meat of sacrifice after three days. The Apostle of Allah (may peace be upon him) said : I prohibited you due to a body of people who came to you. Now eat, give it as *ṣadaqah* (alms), and store up.<sup>2189</sup>

(2807) Nubaishah reported the Apostle of Allah (may peace be upon him) as saying : We forbade you to eat their meat for more than three days in order that you might have abundance ; now Allāh has produced abundance, so you may eat, store up and seek reward. Beware, these days are days of eating, drinking and remembrance of Allah, Most High.

### Chapter 1039

#### ON SACRIFICE OF A TRAVELLER

(2808) Thawbān said : The Apostle of Allah (may peace be upon him) sacrificed during a journey) and then said : Thawbān, mend the meat of this goat. I then kept on supplying its meat until we reached Medina.<sup>2190</sup>

<sup>2188</sup>. Another version has : store up one-third of it.

<sup>2189</sup>. In a certain year some poor people came to the Prophet (may peace be upon him) at the time of sacrifice. As he had to entertain them, he forbade the people to preserve the meat of sacrifice for more than three days. Some traditions indicate that that was the year of distress. Hence the Prophet (may peace be upon him) forbade to store up meat for more than three days to remove their distress, and he wanted to help the people. But this was not a permanent injunction. It was repealed later on when there was prosperity and abundance among the people. Hence scholars are agreed that it is permissible to store up the meat of sacrifice for more than three days. But 'Alī, Ibn 'Umar, al-Zubair, and 'Abd Allāh b. Wāqid b. 'Abd Allāh b. 'Amr are reported to have held the view that the meat of sacrifice should not be preserved for more than three days. It might be that they did not know the tradition which abrogated this commandment ('*Awn al-Ma'būd*, III, 58).

<sup>2190</sup>. This tradition indicates that a traveller is legally required to sacrifice as a person at home is required to do so. This is held by al-Shāfi'ī and by the majority of scholars. Abū Ḥanīfah maintains that sacrifice is not binding on a traveller. 'Alī is also reported to have held this view. Mālik and a group of scholars hold that sacrifice is not necessary for a traveller at Minā and Mecca ('*Awn al-Ma'būd*, III, 59).

*Chapter 1040*

**PROHIBITION OF MAKING AN ANIMAL A TARGET FOR ARROWS,  
AND SHOWING KINDNESS TO AN ANIMAL WHICH IS BEING  
SLAUGHTERED**

(2809) Shaddād b. Aws said : There are two characteristics that I heard the Apostle of Allah (may peace be upon him) say : Allah has decreed that everything should be done in a good way, so when you kill use a good method. The version of the narrators other than Muslim says : "So kill in a good manner." And when you slaughter, you should use a good method, for one of you should sharpen his knife, and give the animal as little pain as possible.<sup>2191</sup>

(2810) Hishām b. Zaid said : I entered upon al-Ḥakam b. Ayyūb along with Anas. He saw some youths or boys who had set up a hen and were shooting at it. Anas said : The Apostle of Allah (may peace be upon him) forbade to kill an animal in confinement.<sup>2192</sup>

*Chapter 1041*

**ON SLAUGHTER OF THE PEOPLE OF THE BOOK**

(2811) Ibn 'Abbās said : The verse : "So eat of (meats) on which Allah's name hath been pronounced"<sup>2193</sup> and the verse : "Eat not of (meats) on which Allah's name hath not been pronounced,"<sup>2194</sup> were abrogated, meaning an exception was made therein by the verse : "The food<sup>2195</sup> of the people of the Book is lawful unto you and yours is lawful unto them."<sup>2196</sup>

(2812) Ibn 'Abbās said explaining the verse "But the evil ones ever inspire their

2191. It is necessary that the animal should be fed well and water may be supplied to it if it is thirsty. The knife should be sharpened so that its throat may be cut easily.

2192. *Ṣabr* means to kill an animal in confinement. It may be in various forms. An animal is confined in an enclosure, and it is not supplied anything to eat and drink until it dies. It may be set up by tying it to a pillar, and then it is made a target for arrows. All such forms as give utmost pain to the animal while killing it are prohibited.

2193. Qur'ān, vi, 118.

2194. Qur'ān, vi, 121.

2195. Qur'ān, v, 6.

2196. Here food refers to the animals slaughtered by the people of the Book, which generally mean Jews and Christians. The meat of such animals is lawful for Muslims for they also believe in Allah, and pronounce His name while slaughtering. This is agreed upon by scholars in general.

The word "abrogation" in this tradition has been used in a broader sense. Here it means exception from the general rule. Muslims were earlier forbidden to eat the meat of an animal that was slaughtered without mentioning the name of Allah. Later on, the exception of the slaughter of the people of the Book was made.

friends to contend with you'' :<sup>2197</sup> They used to say : Do not eat which Allah killed, but eat which you slaughtered. So Allah revealed the verse : ''Eat not of (meats) on which Allah's name hath not been pronounced''<sup>2198</sup> . . . to the end of the verse.<sup>2199</sup>

(2813) Ibn 'Abbās said : The Jews came to the Prophet (may peace be upon him) and said : We eat which we kill but we do not eat which Allah kills ? So Allah revealed : ''Eat not of (meats) on which Allah's name hath not been pronounced'',<sup>2200</sup> to the end of the verse.

### Chapter 1042

#### ON EATING THE FLESH OF ANIMALS SLAUGHTERED FOR VAINGLORY AND PRIDE BY THE BEDOUINS

(2814) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) forbade to eat (the meat of animals) slaughtered by the bedouins for vainglory and pride.<sup>2201</sup>

Abū Dāwūd said : The narrator Ghundar narrated this tradition as a saying of Ibn 'Abbās (and not of the Prophet).

2197. Qur'ān, vi. 121.

2198. Qur'ān, vi. 121.

2199. It is reported that when the verse : ''Eat not of (meat) on which Allah's name hath not been pronounced'' was revealed, the unbelievers taunted the Muslims by saying why they did not eat the flesh of an animal which Allah killed (i.e. carrion) while they ate the flesh of an animal which they killed themselves. This was an evil suggestion inspired to them by Satan. Hence Allah forbade to eat carrion which died its natural death, or the name of Allah was not mentioned on it when it was slaughtered. According to Abū Ḥanīfah, it is necessary to utter the name of Allah at the time of slaughtering. But al-Shāfi'ī holds that if a Muslim who already believes in Allah slaughters an animal, its meat is lawful though he may not utter Allah's name. Abū Ḥanīfah thinks that if he forgets to mention Allah's name, it is lawful, but not if he intentionally abandons it.

2200. Qur'ān, vi. 121.

2201. In pre-Islamic Arabia there was a custom of holding competition between two persons in slaughtering camels. One would slaughter some camels, the other would slaughter more than him and this went on until one of them failed to do so. This was done out of pride, vainshow and display of glory. Since this was not done for seeking the pleasure of Allah, the Prophet (may peace be upon him) forbade to eat the meat of animals slaughtered in this way, although the name of Allah was pronounced on them. Al-Khaṭṭābī says that the people usually slaughter animals to welcome their monarchs and great men when they enter the city. The practice of slaughtering animals to seek the pleasure of the people other than the pleasure of Allah was also prevalent in pre-Islamic Arabia. Hence the Prophet (may peace be upon him) strictly forbade such a practice. Ibn Taimiyyah observes that to eat the meat of animals slaughtered to seek the pleasure of any creature other than Allah, or to exalt, glorify and please a creature, is forbidden. The slaughter of an animal to please a creature or to exalt it amounts to slaughtering it in the name of that creature. An animal slaughtered in the name of any creature other than that of Allah is unlawful according to the Qur'ān.



Abū Dāwūd said: The name of Abū Raihānah is 'Abd Allah b. Maṭar.

### Chapter 1043

#### ON SLAUGHTERING AN ANIMAL WITH A SHARP WHITE STONE (USED AS A KNIFE (FLINT))

(2815) Rāfi' b. Khadīj said: I came to the Apostle of Allah (may peace be upon him) and said: Apostle of Allah, we shall meet the enemy tomorrow and we have no knives with us. May we kill with a sharp-edged white stone (flint) and with splinter of a staff? The Apostle of Allah (may peace be upon him) said: Hasten<sup>2202</sup> in slaughtering it. When Allah's name is mentioned you may eat what is killed by anything which causes the blood to flow<sup>2203</sup> except tooth and claw. I shall tell you about it. The tooth is a bone, and the claw is the knife of the Abyssinians. Some people hastened and went forward, they made haste and got booty, while the Apostle of Allah (may peace be upon him) was in the rear and they set up cooking pots. The Apostle of Allah (may peace be upon him) passed the cooking pots. He ordered to turn them over. He then divided (the spoils of war) between them, and gave them a camel for ten goats in equation. One of the camels of the people ran away, and they had no horses with them at that time. A man shot an arrow at it, and Allah prevented it from escaping. The Prophet (may peace be upon him) said: Among animals (i.e. camels) there are some which bolt like wild animals; so when any of them does so, do with it like this.<sup>2204</sup>

(2816) Muḥammad b. Ṣafwān or Ṣafwān b. Muḥammad said: I hunted two hares and slaughtered them with a flint. I asked the Apostle of Allah (may peace be upon him) about them. He permitted me to eat them.

(2817) 'Aṭā' b. Yasār said on the authority of a man of Banū Hārithah that when he was pasturing a pregnant she-camel in one of the ravines of Uhud, (he saw that) it was about to die; he could find nothing to slaughter it; he took a stake and stabbed it in the upper part of its breast until he made its blood flow. He then came to the Prophet (may peace be upon him) and informed him about that, and he ordered him to eat it.

(2818) 'Adī b. Hātim said: I said: Apostle of Allah, tell me when one of us

2202. There are various meanings of the word *arīn*. Firstly, slaughter it immediately before it is dead. Secondly, slaughter it by anything which makes the blood flow.

2203. Any sharp and edged thing which causes the blood flow can be used to slaughter an animal, except tooth and claw, for the Prophet (may peace be upon him) has prohibited to use them.

2204. If a camel runs away and a man cannot catch it, he is allowed to shoot an arrow so that it may not escape.

catches game and has no knife ; may he slaughter with a flint and a splinter of stick : He said : Cause the blood to flow with whatever you like and mention Allah's name.<sup>2205</sup>

### Chapter 1044

#### ON SLAUGHTER OF A FALLEN ANIMAL

(2819) Abū al-'Usharā' reported on the authority of his father : He asked : Apostle of Allah, is the slaughtering to be done only in the upper part of the breast and the throat ? The Apostle of Allah (may peace be upon him) replied : If you pierced its thigh, it would serve you.<sup>2206</sup>

Abū Dāwūd said : This is the way suitable for slaughtering an animal which has fallen into a well or runs loose.

### Chapter 1045

#### ON SLAUGHTERING AN ANIMAL WELL

(2820) Ibn 'Abbās said : Ibn 'Isā added : (Ibn 'Abbās) and Abū Hurairah said : The Apostle of Allah (may peace be upon him) forbade the devil's sacrifice. Abū 'Isa added in his version : This refers to the slaughtered animal whose skin is cut off, and is then left to die without its jugular veins being severed.<sup>2207</sup>

### Chapter 1046

#### ON SLAUGHTERING THE EMBRYO

(2821) Abū Sa'īd (al-Khudrī) said : I asked the Apostle of Allah (may peace be upon him) about the embryo. He replied : Eat it if you wish. Musaddad's version says :

2205. These traditions show that if a man has no knife to slaughter a game or an animal, he may slaughter it with a peg or a pointed piece of wood which causes the blood to flow.

2206. To pierce a thigh or some other part of an animal to make the blood flow is permissible in case when the animal is not in control, such as an animal which fell into well, or fell from a lofty place in a dig, or a game running away beyond the reach of a man. In such cases piercing any part of the animal is sufficient.

Al-Khaṭṭābī said : This is a weak tradition, for a narrator in the chain is obscure. Besides, the name of the father of Abū al-'Usharā' is not known. Moreover, no one narrates from him except Hammād b. Salamah (*'Awn al-Ma'būd*, III, 62).

2207. It is most barbaric to cut the skin of an animal and leave it to die in agony. The throat and the jugular veins should be cut off well so that it may die easily. This practice was prevalent in pre-Islamic days. Hence the Prophet (may peace be upon him) attributed such a way slaughtering to the devil.

We said: Apostle of Allah, we slaughter a she-camel, a cow and a sheep, and we find an embryo in its womb. Shall we throw it away or eat it? He replied: Eat it if you wish, for the slaughter of its mother serves its slaughter.<sup>2208</sup>

(2822) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying: The slaughter of embryo is included when its mother is slaughtered.

### Chapter 1047

#### ON EATING THE MEAT ON WHICH IT IS NOT KNOWN WHETHER ALLAH'S NAME WAS PRONOUNCED OR NOT

(2823) 'Ā'ishah said (the narrator<sup>2209</sup> Mūsā did not mention the words "from 'Ā'ishah" in his version from Ḥammād, and al-Qa'nabī also did not mention the words "from 'Ā'ishah" in his version from Mālik): They (the people) said: Apostle of Allah, there are people here, recent converts from polytheism, who bring us meat and we do not know whether or not they mentioned Allah's name over it. The Apostle of Allah (may peace be upon him) said: Mention Allah's name and eat.<sup>2210</sup>

### Chapter 1048

#### THE 'ATIRAH

(2824) Nubaishah said: A man called the Apostle of Allah (may peace be upon

2208. This tradition indicates that it is not necessary to slaughter the embryo. Its slaughter is included when its mother is slaughtered. This view is universally held by scholars in general. Abū Ḥanīfah holds that the embryo should be slaughtered separately if it is living. If it is dead it should not be eaten (*'Awn al-Ma'būd*, III, 63).

2209. The narrators Mūsā and al-Qa'nabī omitted the name of 'Ā'ishah in their versions. They narrated directly from 'Urwah. Thus the tradition is *mursal*. But Yūsuf b. Mūsā narrates this tradition from 'Ā'ishah. According to his version, the tradition is not *mursal*.

2210. This does not mean that mentioning Allah's name later on at the time of eating will suffice. It means that one should have good faith about a Muslim. If an animal was slaughtered by a Muslim, one must be confident that he certainly mentioned Allah's name at the time of slaughter. Hence it is lawful to eat such a meat. The Prophet (may peace be upon him) ordered the people to mention Allah's name at the time of eating merely to remove their misgivings about it.

There is a difference of opinion amongs scholars about abandoning the mention of Allah's name while slaughtering an animal. Al-Shāfi'i, Mālik and Aḥmad b. Ḥanbal hold that mentioning Allah's name over an animal at the time of its slaughter is commendable and not obligatory. If one leaves it unintentionally or inadvertently, it is lawful to eat its meat. They contend that a Muslim has Allah's name at heart, he need not mention it expressly. Sufyān al-Thawrī, Ishāq b. Rāhwaiḥ and Abū Ḥanīfah hold that if a Muslim does not mention Allah's name inadvertently while slaughtering an animal, its meat is lawful. But if he abandons it intentionally, it is unlawful. According to Ibn Thawr and Dāwūd al-Zāhirī, if a man does not mention Allah's name intentionally or out of

him): We used to sacrifice 'atirah<sup>2211</sup> in pre-Islamic days during Rajab ; so what do you command us ? He said : Sacrifice for the sake of Allah in any month whatever ; obey Allah, Most-High, and feed (the people). He said : We used to sacrifice a fara<sup>2212</sup> in pre-Islamic days, so what do you command us ? He said : On every pasturing animal there is a fara' which is fed by your cattle till it becomes strong and capable of carrying load.<sup>2213</sup> The narrator Naṣr said (in his version): When it becomes capable of carrying load of the pilgrims, you may slaughter it and give its meat as charity (ṣadaqah).<sup>2214</sup> The narrator Khālid's version says: You (may give it) to the travellers, for it is better. Khālid said: I asked Abū Qilābah : How many pasturing animals ? He replied : One hundred.<sup>2215</sup>

(2825) Abū Hurairah reported the Prophet (may peace be upon him) as saying: There is no fara' and no 'atirah.<sup>2216</sup>

(2826) Sa'id said : Fara' was the first animal born to them (the Arabs) which they sacrificed.

(2827) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) used to sacrifice a goat out of every fifty goats.

Abū Dāwūd said: Fara' means the first baby of a camel born (to the Arabs).

forgetfulness, it is unlawful to eat the meat of such an animal. Ibn Sīrīn and al-Sha'bī are also reported to have held this view ('Awn al-Ma'būd, III, 63).

2211. This was the Rajab sacrifice prevalent in pre-Islamic Arabia. This remained in vogue in the early days of Islam. Later on it was repealed.

2212. This was a pre-Islamic custom of sacrifice which the Arabs used to make, Fara' was the first animal born to them which they sacrificed to their idols. 'Atirah was applied to a goat or sheep which the Arabs sacrificed in the first ten days of Rajab. This was also known as Rajabiyyah. Both practices were abolished in Islam.

It is also said that by abolition of 'atirah and fara' in Islam means that they remained no longer obligatory on Muslims. Sacrifice on the day of al-Aḥḥā was substituted for them. Yet they are not disapproved. They can be practised to help the poor by distributing the meat of these sacrifices among them. It will be a righteous act ('Awn al-Ma'būd, III, 64).

2213. In another version this Arabic word is istajmala meaning "it becomes a grown-up camel."

2214. This means that the sacrifice of 'atirah and fara' may be made in Islam to help the poor and travellers by means of meat.

2215. It is reported that the practice of fara' was continued in the early days of Islam. It was then abolished. The narrator asked about the number of the pasturing animals from which the Prophet (may peace be upon him) ordered to sacrifice the fara'.

2216. This means that these practices of pre-Islamic Arabia have been abolished in Islam. Or this means that these sacrifices remained no longer obligatory. But one can practise them to help the indigent.

Fara' has also been explained as sacrificing a camel when a man had completed the number of one hundred camels with him. He made this sacrifice of one camel to their idols in pre-Islamic days.

They used to sacrifice it for their idols, and then eat it, and its skin was thrown on a tree. 'Atīrah was a sacrifice made during the first ten days of Rajab.

### Chapter 1049

#### THE 'AQIQAḤ<sup>2217</sup>

(2828) Umm Kurz al-Ka'bīyah said: I heard the Apostle of Allah (may peace be upon him) say: Two resembling sheep are to be sacrificed for a boy and one for a girl.<sup>2218</sup> Abū Dāwūd said: I heard Aḥmad (b. Ḥanbal) say: The Arabic word *mukāfi'atani*<sup>2219</sup> means equal (in age) or resembling each other.

(2829) Umm Kurz said: I heard the Prophet (may peace be upon him) say: Let the birds stay in their roosts.<sup>2220</sup> She said: I also heard him say: Two sheep are to be sacrificed for a boy and one for a girl, but it does you no harm whether they are male or female.

(2830) Umm Kurz said: The Apostle of Allah (may peace be upon him) said: Two sheep which resemble each other are to be sacrificed for a boy and one for a girl.

Abū Dāwūd said: This is a sound tradition, and the tradition narrated by Sufyān is misunderstanding.

(2831) Samurah reported the Apostle of Allah (may peace be upon him) as saying: A boy is in pledge<sup>2221</sup> for his 'aqiqah. Sacrifice is made for him on the seventh day, his head is shaved and is smeared with blood. When Qatādah was asked about smearing with blood, how that should be done, he said: When you cut the head (i.e. throat) of the animal (meant for 'aqiqah), you may take a few hair of it, place them on its veins, and then place them in the middle of the head of the infant, so that the

2217. The word 'aqiqah applies to the hair on a newly-born infant. This is shaved off on the seventh day. It also stands for the sheep or goat which is sacrificed when the hair is shaved.

2218. 'Aqiqah is recommended (*sunnah*) and not obligatory. Two sheep are to be sacrificed for a boy and one for a girl. The view is held by the majority of scholars. According to Mālik, one sheep is to be sacrificed both for a girl and for a boy.

2219. This word has been explained in various ways. They are: equal in age; each one may be slaughtered in the face of the other; both may be slaughtered simultaneously; a sheep as good as the one accepted for *zakāt* and as the one sacrificed on the day of Aḥḥā; two sheep which resemble each other ('*Awn al-Ma'būd*, III, 65).

2220. Birds are not to be disturbed for the purpose of taking omens, as practised in pre-Islamic Arabia. Muslims believe in Allah; they do not care for omens.

2221. There are various explanations for this phrase. According to Aḥmad b. Ḥanbal, this refers to intercession. If the sacrifice is not made for the infant and it dies in infancy, it will not intercede its parents on the Day of Judgment. Another view says that this means that 'aqiqah is necessary like pledge. Those who look upon 'aqiqah as necessary contend on the basis of this tradition. A third view is that it means that the infant will suffer from injury due to its hair. It remains in pledge until the hair is removed.



blood flows on the hair (of the infant) like a thread. Then its head may be washed and shaved off.

Abū Dāwūd said: In narrating the word "is smeared with blood" (*yudamma*) there is a misunderstanding on the part of Hammām.

Abū Dāwūd said: Hammām has been opposed in narrating the words "is smeared with blood". This is a misunderstanding of Hammām. They narrated the word "he is given a name" (*yusamma*) and Hammām narrated it "is smeared with blood" (*yudamma*).

Abū Dāwūd said: This tradition is not followed.<sup>2222</sup>

(2832) Samurah b. Jundub reported the Apostle of Allah (may peace be upon him) as saying: A boy is in pledge for his '*aqiqah*. Sacrifice is made for him on the seventh day, his head is shaved and he is given a name.

Abū Dāwūd said: The word *wa yusamma* is sounder as narrated by Salam b. Abī Muṭī' from Qatādah, and narrated by Iyās b. Dagfal and Ash'ath from al-Ḥasan who narrated *wa yusamma* (and he is given a name).

(2833) Salmān b. 'Āmir al-Ḍabbī reported the Apostle of Allah (may peace be upon him) as saying: Along with a boy there is an '*aqiqah*, so shed blood on his behalf, and remove injury from him.<sup>2223</sup>

(2834) Al-Ḥasan said: To remove the injury is the shaving of the head.<sup>2224</sup>

(2835) Ibn 'Abbās said: The Apostle of Allah (may peace be upon him) sacrificed a ram for both al-Ḥasan and al-Ḥusain each (Allah be pleased with them).<sup>2225</sup>

(2836) 'Amr b. Shu'aib, on his father's authority, said that his grandfather told that the Apostle of Allah (may peace be upon him) was asked about the '*aqiqah*. He replied: Allah does not like the breaking of ties ('*uqūq*),<sup>2226</sup> as though he disliked the name. And he said: If anyone has a child born to him and wishes to offer a sacrifice

2222. Although Qatādah has mentioned the practice of smearing the head of the infant with blood, the practice has been discontinued. No one follows this tradition.

2223 This is variously explained. It means shaving the hair of the infant, or removing the impurities, or even circumcision.

2224. A new-born infant has several things which should be removed from it. They are, for example hair, impurities, placenta, and nails, etc. The word *adhā* covers all such things that cause injury. The hair is one of them. The infant feels relief from the injury when its head is shaved off.

2225. Mālik holds on the basis of this tradition that one sheep or goat is sufficient for a boy. Two sheep are not necessary. But it may be noted that the other version of this tradition narrated by Ibn 'Abbās says that the Prophet (may peace be upon him) sacrificed two rams for each. This tradition of Ibn 'Abbās contradicts a large number of traditions which indicate that one sheep is to be sacrificed for a girl and two for a boy. The number is only commendable and not obligatory. One may sacrifice a sheep for both a girl and a boy.

2226. '*Uqūq* means disobedience to the parents. The root of both words is the same. Hence the Prophet (may peace be upon him) disliked this name.

on its behalf, he may offer two resembling sheep for a boy and one for a girl. And he was asked about *fara'*. He replied: *Fara'* is right.<sup>2227</sup> If you leave it (i.e. let it grow) till it becomes a healthy camel of one year or two years, then you give it to a widow or give it in the path of Allah for using it as a riding beast, it is better than slaughtering it at the age when its meat is stuck to its hair,<sup>2228</sup> and you turn over your milking vessel<sup>2229</sup> and annoy your she-camel.<sup>2230</sup>

(2137) Buraidah said: When a boy was born to one of us in the pre-Islamic period, we sacrificed a sheep and smeared his head with its blood; but when Allah brought Islam, we sacrificed a sheep, shaved his head and smeared his head with saffron.<sup>2231</sup>

2227. This means that *fara'* is not obligatory. It is valid if a man likes to make such a sacrifice.

2228. Meaning that the meat is very scanty.

2229. When the young baby or a new-born camel is slaughtered, the she-camel, i.e. its mother, will cease to give milk. The master of the camel will be deprived of the milk.

2230. When the young of a she-camel is slaughtered, it will be annoyed and pained by its loss. This shows that it is better to give the grown-up camel to a widow, or in the path of Allah for the use of the warriors instead of slaughtering the new-born baby of a camel.

2231. This shows that it is commendable to smear the head of the child with saffron after shaving it on the day of 'aqiqah.

## X. KITAB AL-ŞAID

### [ BOOK OF GAME ]

#### *Chapter 1050*

#### TO HAVE A DOG FOR HUNTING AND SOME OTHER PURPOSES

(2838) Abū Hurairah reported the Prophet (may peace be upon him) as saying: If anyone gets a dog, except a sheeping or a hunting or a farm dog, a qīrāt<sup>2232</sup> of his reward will be deducted daily.<sup>2233</sup>

(2839) 'Abd Allah b. Mughaffal reported the Apostle of Allah (may peace be upon him) as saying: Were dogs not a species of creature I should command that they all be killed; but kill every pure black one.<sup>2234</sup>

(2840) Jābir said: The Prophet of Allah (may peace be upon him) ordered to kill dogs, and we were even killing a dog which a woman brought with her from the desert. Afterwards he forbade to kill them, saying: Confine yourselves to the type which is black.

#### *Chapter 1051*

#### ON GAME

(2841) 'Adī b. Hātim said: I asked the Prophet (may peace be upon him), and said: I set off my trained dogs, and they catch (something) for me; may I eat (it)? He said: When you set off trained dogs and mention Allah's name, eat what they catch for you. I said: Even if they killed (the game)? He said: Even if they killed

2232. The qīrāt is a small weight, a twentieth or twenty-fourth of a dīnār. Here it is used figuratively.

2233. The Prophet (may peace be upon him) did not like to have a dog except for watching or hunting. If a man gets a dog for some other purpose, he will lose his reward daily. Some other traditions indicate that the angels do not enter a house where there is a dog. Moreover, a dog is impure and causes trouble to others.

2234. The Prophet (may peace be upon him) did not order to kill all the dogs, for some of them are to be retained for hunting and watching. He ordered to kill the jet black ones. They might be more mischievous among them.

(the game) so long as another dog does not join it.<sup>2235</sup> I said: I shoot with a featherless arrow, and it strikes the target; may I eat (it)? He said: If you shoot with a featherless arrow and mention Allah's name, and it strikes the aim, and pierce it, eat it; and if it strikes with its middle, do not eat (it).<sup>2236</sup>

(2842) 'Adī b. Ḥātim said: I asked the Apostle of Allah. I said: We hunt with these dogs. He replied: When you set off your dog and mention Allah's name over it, eat what it catches for you, even if it kills it, except that the dog has eaten (any of it); if the dog has eaten (any of it), do not eat, for I am afraid it has caught it only for itself.<sup>2237</sup>

(2843) 'Adī b. Ḥātim reported the Prophet (may peace be upon him) as saying: When you shoot your arrow and mention Allah's name, and you find it (the game) after a day, and you do not find it in water, and you find in it only the mark of your arrow, eat (it); but if another dog joins your dogs, do not eat it, for you do not know maybe the one which was not yours has killed it.<sup>2238</sup>

(2844) Adī b. Ḥātim reported the Prophet (may peace be upon him) as saying: When the animal at which you shot falls in water, is drowned, and dies, do not eat.

(2845) 'Adī b. Ḥātim reported the Prophet (may peace be upon him) as saying: Eat whatever is caught for you by a dog or a hawk you have trained and set off when you have mentioned Allah's name. I said: (Does this apply) if it killed (the animal)? He said: When it kills it without eating any of it, for it caught it only for you.

Abū Dāwūd said: If a hawk eats any of it, there is no harm (in eating it). If a dog eats of it, it is disapproved (to eat the meat). If it drinks blood, there is no harm (in eating it).

(2846) Abū Tha'labat al-Khushanī reported: The Apostle of Allah (may peace be upon him) said about the game hunted by a dog: If you set off your dog and have mentioned Allah's name, eat (it), even if it eats any of it; and eat what your hands

<sup>2235</sup>. If a man sets off a trained dog towards a game, and mentions Allah's name at the time of setting it off, and it catches the game and does not eat of it, he is allowed to eat of it. He need not slaughter it again, for he mentioned Allah's name in the beginning. If another dog joins it, he should not eat it.

<sup>2236</sup>. If a man shoots an arrow at the game, and mentions Allah's name at the time of shooting, and it pierces the game, he may eat it. The *mi'rāq* (featherless arrow) was thick in the middle and slender at the ends. It was liable to strike the animal with its middle part. Now if it strikes with the end and pierces the animal, he may eat it. But if it strikes with the middle, and does not pierce the animal, he should not eat it, for it does not cause the blood to flow.

<sup>2237</sup>. If the dog catches the game, and does not eat any part of it, one is allowed to eat it. But if the dog has eaten any part of it, one should not eat it.

<sup>2238</sup>. It is lawful to eat the meat of the animal caught by a trained dog. But if another dog joins it, there will be confusion about the dog which actually killed it. Hence the Prophet (may peace be upon him) forbade to eat the meat of such an animal.

return you.<sup>2239</sup>

(2847) 'Adī b. Ḥātim said : Apostle of Allah, one of us shoots at the game, and follows its mark for two or three days, and then finds it dead, and there is his arrow (pierced) in it, may he eat<sup>2240</sup> it? He said : Yes, if he wishes, or he said : he may eat if he wishes.

(2848) 'Adī b. Ḥātim said : I asked the Prophet (may peace be upon him) about featherless arrow. He said : If it strikes with its end, eat, and if it strikes with the middle part of it, do not eat, for it died by a violent blow.<sup>2241</sup> I said : I set off my dog? He replied : If you mention Allah's name, eat, otherwise do not eat. If it eats any of it, do not eat, for it caught for itself. He asked : I set off my dog, and I find with it another dog? He replied : Do not eat, because you mentioned Allah's name on your dog.

(2849) Abū Tha'labat b. al-Khushanī reported : I said : Apostle of Allah, I hunt with my trained dog, and with my untrained dog? He said : 'What you hunt with your trained dog, mention Allah's name (on it) and eat; and what you hunt with your untrained dog, and you find in a position that you slaughter it, then eat.<sup>2242</sup>

(2850) Abū Tha'labat al-Khushanī said : The Apostle of Allah (may peace be upon him) said to me : Abū Tha'labah, eat what returns to you by your bow<sup>2243</sup> and your dog. Ibn Ḥarb's version adds : "The trained (dog). and your hand, then eat. whether it has been slaughtered or not slaughtered".

(2851) 'Amr b. Shu'aib, on his father's authority, said that his grandfather reported that there was a bedouin called Abū Tha'labah. He said : Apostle of Allah, I have trained dogs, so tell me your opinion about (eating) the animal they hunt. The Prophet (may peace be upon him) said : If you have trained dogs, then eat what they catch for you. He asked : Whether it is slaughtered or not? He replied : Yes. He asked : Does it apply even if it eats any of it? He replied : Even if it eats any of it. He again asked : Apostle of Allah, tell me your opinion about my bow (i.e. the game hunted

2239. This means that a man is allowed to eat the animal hunted by him with the shot of his arrow, provided he mentioned Allah's name at the time of shooting. If he has not mentioned it, he may slaughter it and mention Allah's name.

2240. After shooting the arrow if the animal goes out of sight, and the man searches for it for two or three days, and finally finds it dead, and finds that his arrow was already there in the animal, he may eat it if he likes. The other versions state that he may eat it provided it has no trench.

2241. To eat the meat of an animal killed by a violent blow is unlawful according to the Qur'ān, v. 4.

2242. If a trained dog catches the animal, one should not eat it unless one slaughters it provided it is found live. If it dies, and a man does not find time to slaughter it, he should not eat.

2243. This means that he hunts with his arrow or dog is lawful for him provided he mentions Allah's name at the time of shooting or setting off the dog.



by arrow). He said : Eat what your bow returns to you, whether it is slaughtered or not. He asked : If it goes out of my sight ? He replied : Even if it goes out of your sight, provided it has no stench, or you find a mark on it other than the mark of your arrow. He asked : Tell me about the use of the vessels of the Magians when we are forced to use them. He replied : Wash them and eat in them.<sup>2244</sup>

### *Chapter 1052*

#### ON EATING THE PART CUT OFF OF AN ANIMAL WHILE IT IS ALIVE

(2852) Abū Wāqid reported the Prophet (may peace be upon him) as saying : Whatever is cut off of an animal when it is alive is dead.<sup>2245</sup>

### *Chapter 1053*

#### ON PURSUING THE GAME

(2853) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying (the narrator Sufyān said : I do not know but that it [the tradition] has been transmitted from the Prophet [may peace be upon him] : He who lives in the desert will become rude ;<sup>2246</sup> he who pursues the game<sup>2247</sup> will be negligent, and he who visits a king will be perverted.<sup>2248</sup>

(2854) Abū Hurairah reported the Prophet (may peace be upon him) as saying to the same effect as narrated by the narrator Musaddad. He said : He who sticks to a

2244. The Magians and other non-Muslims cook the flesh of swine in their vessels, and drink wine. If Muslims are forced to eat or drink in their vessels, they are allowed to do so after washing them.

2245. Another version of this tradition says that when the Prophet (may peace be upon him) came to Medina, the people used to cut off camel's humps and cut the fat tails of sheep. He forbade to eat such a meat. This meat is like carrion and must not be eaten. An animal should be slaughtered properly, and part from its body should be cut off when it is alive.

2246. A man becomes rude and harsh in manners by living in desolate places such as villages, deserts and rural areas. These places are generally devoid of progress, education and civilisation. Hence one cannot learn manners essential to a civilised man.

2247. One may go for hunting the game in leisure hours. But it is not advisable to make hunting a profession and a regular pursuit. It has its demerits too. A man indulged in hunting becomes careless and neglects sometimes his more important duties. Therefore, it is better to take it as a hobby, and not to pursue it regularly.

2248. By king is here meant any ruler or man in authority. A man is allowed to visit rulers or men in power occasionally for some personal work concerned with them. But it is not advisable to visit them frequently for no purpose. There is a danger of perversion in his frequent visits to them.

king is perverted. This version adds: The nearer a servant (of Allah) goes to a king, the farther he keeps away from Allah.

(2855) Abū Tha'labat al-Khushanī reported the Prophet (may peace be upon him) as saying: When you shoot your arrow (and the animal goes out of your sight) and you come three days later on it, and in it there is your arrow, then eat provided it has no stench.<sup>2249</sup>

<sup>2249</sup>. If there is no stench in the game, it is lawful to eat it. In case it has a stench, one should not eat it.

# XI. KITĀB AL-WASĀYĀ

## [ BOOK OF WILLS ]

### *Chapter 1054*

#### COMMANDMENTS OF MAKING A BEQUEST

(2856) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon him) as saying: It is the duty of a Muslim man who has something which is to be given as a bequest not to have it for two nights<sup>2250</sup> without having his will written regarding it.<sup>2251</sup>

(2857) 'Ā'ishah said: The Apostle of Allah (may peace be upon him) did not leave dinars, dirhams, camels and goats, nor did he leave will for anything.<sup>2252</sup>

### *Chapter 1055*

#### WHAT IS PERMISSIBLE FOR A TESTATOR TO GIVE AS A BEQUEST FROM HIS PROPERTY

(2858) 'Āmir b. Sa'd reported on the authority of his father (Sa'd b. Abi Waqqāṣ): When he (Sa'd) fell ill at Mecca (according to the version of Ibn Abi Khalaf)—then the agreed version has: which brought him near to death—the Apostle

2250. The other versions have "one night," "two nights," and "three nights". By this it means approximation and not definite limitation. This means that a man should write a will about a thing which he wants to give as a bequest to someone. Time should not pass as no one knows when he will die.

2251. Some scholars conclude from this tradition that leaving a will is necessary for every Muslim. But the majority of scholars are of view that it is only commendable to leave a will. But this is in case he has no debt or deposit with him. If he is indebted or has deposits of others with him, it is necessary to leave a will before his death. The Prophet (may peace be upon him) has, therefore, commanded Muslims to have a will written with them as soon as possible, for the moment of death is not known to anyone.

2252. The Prophet (may peace be upon him) did not leave any property for inheritance. Whatever he left was to be given as charity (*ṣadaqah*). He, therefore, did not leave any will about his property. This does not mean that he kept silence at the time of his death and did not give any instructions to Muslims. Of course, he left many instructions and admonitions for Muslims before his death.

of Allah (may peace be upon him) went to visit him. He said : Apostle of Allah, I have a large amount of property, and my daughter is my only heir. May I give two-thirds (of my property) as a *ṣadaqah* (charity) ? He said : No. He asked : Then a half ? He replied : No. He asked : Then one-third ? He replied : (You may will away) a third and a third is a lot. To leave your heirs rich is better than to leave them poor begging from people. You will not spend anything, seeking thereby to please Allah, without being rewarded for it, even the mouthful you give your wife.<sup>2253</sup> I said : Apostle of Allah, shall I be left behind from immigration (to Medina) ?<sup>2254</sup> He said : If you remain behind after me and do good works seeking the pleasure of Allah, your rank will be raised and degree increased.<sup>2255</sup> Perhaps you will not remain behind, and some people will benefit from you and others will be harmed by you.<sup>2256</sup> He then said : O Allah, complete the immigration of my Companions and do not turn them back. But miserable was Sa'd b. Khawlah. The Apostle of Allah (may peace be upon him) lamented on him as he died at Mecca.<sup>2257</sup>

### Chapter 1056

#### DISAPPROVAL OF CAUSING INJURY TO ANYONE BY A WILL

(2859) Abū Hurairah reported : A man asked the Apostle of Allah (may peace be upon him) : Apostle of Allah, which *ṣadaqah* (charity) is the best ? He replied : (The best *ṣadaqah* is) that you give something as *ṣadaqah* (charity) when you are healthy, greedy, expect survival and fear poverty, and not that you postpone it until your death, and then you say : For so-and-so is such-and-such, and for so-and-so is such-and-such, while it was already for so-and-so.<sup>2258</sup>

2253. This shows that one should not will away more than one-third from his property. One is allowed to make a will only for one-third. Further, the tradition also indicates that one should leave property for one's heirs so that they may not beg from the people after the death of the testator.

2254. He asked this question because he could not migrate to Medina due to his illness.

2255. This means that it depends on one's sincere desire and good works. If a man has a desire, to immigration, but he could not do for some valid reason, he will be rewarded.

2256. The prediction of the Prophet (may peace be upon him) came true. He had a long life, and migrated from Mecca to Medina. He fought a number of battles and conquered vast territories for Muslims, and did a great harm to the enemies of Islam.

2257. Sa'd b. Khawlah died in Mecca and could not migrate to Medina. But some traditions indicate that he had migrated to Medina. He came to Mecca for performing *Hajj* along with the Prophet (may peace be upon him) and died there. But he did not want to die in a land from where he had already departed.

2258. This tradition shows that a man should give his property as *ṣadaqah* while he is in good health, and should not leave a will at the time of his death. The property will be distributed among his heirs after his death.

(2860) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying: A man giving a dirham as *ṣadaqah* (charity) during his life is better than giving one hundred dirhams as *ṣadaqah* (charity) at the moment of his death.

(2861) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: A man or a woman acts in obedience to Allah for sixty years, than when they are about to die they cause injury by their will,<sup>2259</sup> so they must go to Hell. Then Abū Hurairah recited: "After a legacy which you bequeath or a debt, causing no injury . . . that will be the mighty success."<sup>2260</sup>

Abū Dāwūd said: Al-Ash'ath b. Jābir is the grandfather of Naṣr b. 'Alī.

### Chapter 1057

#### ON EXECUTION OF WILLS

(2862) Abū Dharr said: The Apostle of Allah (may peace be upon him) said to me: Abū Dharr, I see you weak, and I like for you what I like for myself. Do not be a leader of two (persons), and do not be a guardian of the property of an orphan.<sup>2261</sup>

Abū Dāwūd said: This has been narrated only by the people of Egypt.

### Chapter 1058

#### ABROGATION OF LEAVING A WILL FOR PARENTS AND RELATIVES

(2863) Ibn 'Abbās said: The Qur'ānic verse goes: "(It is prescribed when death approaches any of you), if he leaves any goods, that he make bequest to parents and next of kin."<sup>2262</sup> The bequest was made in this way until the verse of inheritance repealed it.<sup>2263</sup>

2259. This means that a testator deprives some of his relatives of their share in property by leaving a will, or he does not leave a will for those who deserve, but bequeathes to those who do not deserve. Thus he causes injury to his deserving relatives.

2260. Qur'ān, iv. 12 f.

2261. To be a leader or a commander of a body, and guardianship of the property of an orphan are works of responsibility. A strong and competent man can be a commander of a body. Similarly, guardianship runs the risk of damage to the property. If a man is weak, he should not take such responsible work to do. He will be called to account by Allah.

2262. Qur'ān, ii. 180.

2263. To leave a will for parents and other relatives was obligatory before the revelation of the verses relating to the shares of inheritance. When these verses came down, the injunction of will was repealed. Further, a tradition indicates that no will should be made to an heir. Now leaving a will is not obligatory for the relatives.



*Chapter 1059*

## ON MAKING A WILL TO AN HEIR

(2864) Abū Umāmah said : I heard the Apostle of Allah (may peace be upon him) say : Allah has appointed for everyone who has a right what is due to him, and no bequest must be made to an heir.<sup>2264</sup>

*Chapter 1060*

## MIXING ONE'S FOOD WITH THE FOOD OF AN ORPHAN

(2865) Ibn 'Abbās said : When Allah, Most High, revealed the verses : "Come not nigh to the orphan's property except to improve it,"<sup>2265</sup> and "Those who unjustly eat up the property of orphans,"<sup>2266</sup> everyone who had an orphan with him went and separated his food from his (orphan's) food, and his drink from his drink, and began to detain the remaining food which he (the orphan) himself ate or spoiled. This fell heavy on them, and they mentioned this to the Apostle of Allah (may peace be upon him). So Allah, Most High, revealed the verse : "They ask thee concerning orphans. Say : The best thing to do is what is for their good ; if ye mix their affairs with yours, they are your brethren."<sup>2267</sup> Then they mixed their food with his food and their drink with his drink.<sup>2268</sup>

*Chapter 1061*

## ON TAKING SOMETHING FROM THE PROPERTY OF AN ORPHAN BY HIS GUARDIAN

(2866) 'Amr b. Shu'aib, on his father's authority, said that his grandfather told that a man came to the Prophet (may peace be upon him) and said : I am poor, I have nothing (with me), and I have an orphan. He said : Use the property of your

2264. This tradition indicates that bequest should not be made to an heir who receives a share from the inheritance. To make a legacy of one-third of the property is permissible provided the rest of the heirs permit him. According to some scholars, leaving a will to an heir is absolutely forbidden. Legacy can be made only to a person who does not receive share from the inheritance.

2265. Qur'ān, xvii. 34.

2266. Qur'ān, iv. 10.

2267. Qur'ān, ii. 220.

2268. The Companions separated their food and drink as a precaution so that they might not use the property of an orphan. But in this way their property began to go waste. Hence they were advised to mix their food with the food of an orphan and treat them like their brethren.

Ch. 1063 ] Gravity of Consuming the Property of an Orphan by the Executor [ 809  
orphan without spending it lavishly, hurrying<sup>2269</sup> and taking it as your own property.<sup>2270</sup>

### Chapter 1062

#### WHEN DOES ORPHANHOOD COME TO AN END ?

(2867) 'Alī b. Abī Ṭālib said : I memorised (a tradition) from the Apostle of Allah (may peace be upon him) : There is no orphanhood after puberty,<sup>2271</sup> and there is no silence for the whole day till the night.<sup>2272</sup>

### Chapter 1063

#### GRAVITY OF CONSUMING THE PROPERTY OF AN ORPHAN BY THE EXECUTOR

(2868) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Refrain from seven (characteristics) which cause destruction. He was asked : What are they, Apostle of Allah ? He replied : To assign partner to Allah, magic, to kill a soul (man) which is prohibited by Allah except for which is due, to take usury, to consume the property of an orphan,<sup>2273</sup> to retreat on the day of the battle, and to slander chaste women, indiscreet but believing.

Abū Dāwūd said : The name of Abū al-Ghaith is Sālim client of Ibn Muṭl'.

(2869) 'Umair, a Companion of the Prophet (may peace be upon him) said : A man asked him (the Prophet) : Apostle of Allah, what are the grave sins ? He replied : They are nine. He then mentioned the tradition to the same effect. This version

2269. This means to consume the property quickly for fear of growing up of the orphan.

2270. An executor or guardian of an orphan is allowed to spend his property for his own use as a compensation for looking after him. But he should take the amount in accordance with the custom and general practice. Moreover, he should take the compensation in proportion to his work. Ibn 'Abbās, al-Ḥasan, al-Nakha'ī and Ibn Ḥanbal are of opinion that the guardian is allowed to take some amount from the property of an orphan. 'Ābidah al-Salmānī, Sa'īd b. Jubair, Mujaḥid and al-Auzā'ī hold that he may take something from his property, but repay it to him when he grows up (*'Awn al-Ma'būd*, III, 74).

2271. This tradition indicates the age of orphanhood. After coming of age, a boy or girl is not called orphan. The laws about the orphans will not be applied to them.

2272. The people used to keep silence all the day long as a devotion to Allah in pre-Islamic times. But no such silence is taken into consideration in Islam. It is not necessary to keep silence during *i'tikāf* in the mosque. One may have a religious talk. Silence is no worship.

2273. To consume the property of an orphan by illegal means is a grave sin. It destroys the man in this world and in the Hereafter.

adds : "And disobedience to the Muslim parents,<sup>2274</sup> and to violate the sacred House, your *qiblah* (direction of prayer), in your life and after death.<sup>2275</sup>

### Chapter 1064

#### PROOF OF THE FACT THAT A SHROUD IS A PART OF PROPERTY

(2870) Khabbāb said : Muṣ'ab b. 'Umar was killed at the battle of Uhud, and for him only a coarse cloth would be found as a shroud. When we covered his head, his feet showed, and when we covered his feet, his head showed. So the Apostle\* of Allah (may peace be upon him) said : Cover his head with it (cloth), and put some rushes over his feet.<sup>2276</sup>

### Chapter 1065

#### ON A MAN WHO DONATES A THING, THEN IT IS BEQUEATHED TO HIM OR HE INHERITS IT

(2871) Buraidah said : A woman came to the Apostle of Allah (may peace be upon him) and said : I donated my slave-girl to my mother, but she died and left the slave-girl. He said : Your reward became due, and she came back to you in inheritance.<sup>2277</sup> She said : She died while a month's fasting was due from her. Would it be sufficient or be taken as completed if I fast on her behalf ? He said : Yes.<sup>2278</sup> She said : She also did not perform *Hajj*. Would it be sufficient or be taken as completed if I perform (*Hajj*) on her behalf ? He said : Yes.<sup>2279</sup>

### Chapter 1066

#### ON A MAN WHO INSTITUTES A RELIGIOUS ENDOWMENT

(2872) Ibn 'Umar said : 'Umar got some land in Khaibar, and he went to the

2274. A man should obey his parents so far as they do not command what is against the teachings of Islam. If they command what is unlawful, he should not obey them.

2275. The desecration of the sacred mosque is a grave sin. It means to cut the grass, trees and to hunt game within its precincts.

2276. This shows that if a deceased person leaves no property except a cloth, that will be used for his shroud, and will not be distributed among the heirs.

2277. If a man donates a thing to another person, and then receives it back in inheritance, it is lawful. But one should not buy it after donation.

2278. A group of scholars hold that it is lawful to fast on behalf of another person after his death. But the majority of scholars are of view that one cannot fast on behalf of another man after his death. They draw an analogy with the prayer. This tradition is not generally followed.

2279. This tradition indicates that it is lawful to perform *Hajj* on behalf of another man after his death. This is generally agreed by scholars.

Prophet (may peace be upon him) and said : I have acquired land in Khaibar which I consider to be more valuable than any I have acquired ; so what do you command me to do with it ? He replied : If you wish, you may make the property an inalienable possession, and give its produce as *ṣadaqah* (charity). So 'Umar gave it as *ṣadaqah* declaring that the property must not be sold, given away, or inherited : (and gave its produce as *ṣadaqah* to be devoted) to the poor, relatives, the emancipation of slaves, Allah's path, travellers. The narrator Bishr added : "and guests". Then the agreed version goes : No sin being committed by the one who administers it if he eats something from it in a reasonable manner, or gives something to a friend, who does not make his own property.<sup>2280</sup> The narrator Bishr added : "(provided) he is not storing-up goods (for himself)".<sup>2281</sup>

(2873) Yahyā b. Sa'id said : 'Abd al-Ḥamīd b. 'Abd Allah b. 'Abd Allah b. 'Umar b. al-Khaṭṭāb copied for me a document about the religious endowment (*wagf*) made by 'Umar b. al-Khaṭṭāb : In the name of Allah, the Compassionate, the Merciful. This is what Allah's servant 'Umar has written about Thamgh.<sup>2282</sup> He narrated the tradition like the one transmitted by Nāfi'. He added : "provided he is not storing up goods (for himself)". The surplus fruit will be devoted to the beggar and the deprived. He then went on with the tradition, saying : If the man in charge of Thamgh wishes to buy a slave for his work for its fruits (by selling them), he may do so. Mu'iqb penned it and 'Abd Allah b. al-Arqam witnessed it : In the name of Allah, the Compassionate the Merciful. This is what Allah's servant 'Umar, Commander of the Faithful, directed, in case some incident happens to him (i.e. he dies), that Thamgh, Ṣirmah<sup>2283</sup> b. al-Akwa', the servant who is there, the hundred shares in (the land of) Khaibar, the servant who is there and the hundred shares which Muḥammad (may peace be upon him) had donated to me in the valley (nearly) will remain in the custody of Ḥafṣah during her life, then the men of opinion from her family will be in charge of these (endowments), that these will neither be sold nor purchased. spending (its produce) where they think (necessary on the beggar, deprived and relatives). There is no harm to the one in charge\* (of this endowment) if he eats himself, or feeds, or buys slaves with it.

2280. This may also mean that he does not acquire capital for himself.

2281. This tradition indicates the validity of religious endowments (*wagf*). It is an inalienable property. It is neither sold, nor given away, nor inherited. According to Abū Ḥanīfah, the property endowed as *wagf* remains in the ownership of the man who endows, but its produce is devoted to the poor and travellers, and others.

2282. Name of the land owned by 'Umar near Medina. He endowed it as *wagf* for the benefit of the poor.

2283. Ṣirmah here refers to a small part of land with palm-trees and some camels. It may be noted that Thamgh and Ṣirmah b. al-Akwa' were the well-known properties of 'Umar near Medina.

## Chapter 1067

ON GIVING ṢADAQAH (CHARITY) ON BEHALF  
OF A DECEASED

(2874) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: When a man dies, his action discontinues from him except three things,<sup>2284</sup> namely, perpetual ṣadaqah<sup>2285</sup> (charity), or the knowledge by which benefit is acquired,<sup>2286</sup> or a pious child who prays for him.<sup>2287</sup>

## Chapter 1068

ON GIVING ṢADAQAH ON BEHALF OF A MAN WHO DIES  
WITHOUT LEAVING ANY WILL

(2875) ʿĀʾishah said: A woman said: Apostle of Allah, my mother suddenly died; if it had not happened, she would have given ṣadaqah (charity) and donated (something). Will it suffice if I give ṣadaqah on her behalf? The Prophet (may peace be upon him) said: Yes, give ṣadaqah on her behalf.<sup>2288</sup>

(2876) Ibn ʿAbbās said: A man said: Apostle of Allah, my mother has died; will it benefit her if I give ṣadaqah on her behalf? He said: Yes. He said: I have a garden, and I call you to witness that I have given it as ṣadaqah on her behalf.

2284. After a man's death he is unable to do good or bad works. He can do these works in his life. There are only three kinds of work which bring reward to him after his death.

2285. If a man builds a mosque, a school for Islamic education, endows land for the benefit of the poor, or performs similar other works for public benefit, he will get reward after his death so long as the people will be benefited by them. He will go on getting reward in the next world for works of social welfare.

2286. This refers to writing a book on Islam or translating some work which provides information to people about Islam. The author will get reward in the next world so long as the people keep on reading it.

2287. If a man dies and leaves a child who is pious and prays for his father, he will get reward in the next world for the piety of the child and his prayer.

Abū Dāwūd has inferred from this tradition that a man gets the reward of the ṣadaqah given on his behalf by the relatives in the next world after his death. Similarly, he gets the reward of recitation of the Qurʾān, fasting and praying by his friends and relatives in the next world. This view is held by Aḥmad, Abū Ḥanīfah, and majority of scholars. Mālik and al-Shāfiʿī are reported to have held that the reward of physical worship like recitation of the Qurʾān, fasting and prayer does not reach the deceased in the next world (ʿAwn al-Maʿbūd, III, 77).

2288. This shows that the deceased gets the reward of the ṣadaqah given on his behalf in the next world. He is benefited by the ṣadaqah.



*Chapter 1069*

**IF A NON-MUSLIM WHO IS AT WAR WITH MUSLIMS DIES, AND  
LEAVES A WILL, AND HIS HEIR EMBRACES ISLAM, SHOULD  
HE EXECUTE HIS TESTATION ?**

(2877) 'Amr b. Shu'aib, on his father's authority, said that his grandfather told that al-'Āṣ b. Wā'il left in his will that a hundred slaves should be emancipated on his behalf. His son Hishām emancipated fifty slaves and his son 'Amr intended to emancipate the remaining fifty on his behalf, but he said : I should ask first the Apostle of Allah (may peace be upon him). He, therefore, came to the Prophet (may peace be upon him) and said : Apostle of Allah, my father left in his will that a hundred slaves should be emancipated on his behalf and Hishām has emancipated fifty on his behalf and fifty remain. Shall I emancipate them on his behalf ? The Apostle of Allah (may peace be upon him) said : Had he been a Muslim and you had emancipated slaves on his behalf, or given *sadaqah* on his behalf, or performed the pilgrimage, that would have reached him.<sup>2289</sup>

*Chapter 1070*

**IF A MAN DIES AND LEAVES DEBT TO BE PAID BY HIM, HIS  
CREDITORS WILL BE ASKED TO DEFER REPAYMENT FOR  
SOME TIME AND THE HEIRS WILL BE TREATED  
WITH LENIENCY**

(2878) Jābir b. 'Abd Allah said that his father died and left a debt of thirty wasqs<sup>2290</sup> of a Jew on him. Jābir asked him to defer, but he refused. Jābir then spoke to the Apostle of Allah (may peace be upon him) asking him to mediate to him on his behalf. The Apostle of Allah (may peace be upon him) came to the Jew and spoke to him about taking fruit-dates in lieu of the debt that was on him. But he refused. The Apostle of Allah (may peace be upon him) asked him to defer (the debt) to him, but he refused.<sup>2291</sup> He then narrated the rest of the tradition.

2289. This shows that the reward of the good works of a non-Muslim does not reach him in the next world. He may get the reward of his good works in this world while he is alive, but not in the Hereafter. Good works are nullified if a man is not a Muslim. He will not be benefited by them in the next world.

2290. Wasq is a camel-load equivalent to 60 ṣā's.

2291. If a man dies and leaves debt on his heirs, the creditors will be asked to defer the payment, and treat heirs with leniency.

## XII. KITĀB AL-FARĀ'ID

### [ BOOK OF SHARES OF INHERITANCE ]

#### *Chapter 1071*

#### ON TEACHING THE SHARES OF INHERITANCE

(2879) 'Abd Allāh b. 'Amr b. al-Āṣ reported the Apostle of Allāh (may peace be upon him) as saying : Knowledge has three categories ; anything else is extra ; a precise verse,<sup>2292</sup> or an established *sunnah*<sup>2293</sup> (practice), or a firm obligatory duty.<sup>2294</sup>

#### *Chapter 1072*

#### ON THE SHARES OF THOSE WHO LEAVE NO DESCENDANTS OR ASCENDANTS AS HEIRS

(2880) Jābir said ; I fell ill, and the Prophet (may peace be upon him) and Abū Bakr came to me on foot to visit me. As I was unconscious, I could not speak to him. He performed ablution and sprinkled water on me ; so I became conscious. I said : Apostle of Allāh, how should I do in my property, as I have sisters ? Thereafter the verse<sup>2295</sup> about inheritance was revealed : "They ask thee for a legal decision.

2292. This refers to a verse which has not been repealed, or which has only one meaning. It is not subject to diverse interpretations.

2293. This means a *sunnah* which is sound, firmly established, and transmitted directly from the Prophet (may peace be upon him).

2294. This refers either to the shares of inheritance or to obligatory duties in general, derived directly from the Qur'ān or *Sunnah*.

This tradition indicates that the learning of the Qur'ān, *Sunnah*, the obligatory duties, especially the shares of inheritance, constitute the substance of knowledge. It is necessary to learn these things. To acquire knowledge of other things is not as necessary as the knowledge of these fundamentals ('*Awn al-Ma'būd*, III, 79).

2295. Qur'ān, iv. 176.

Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs."<sup>2296</sup>

### Chapter 1073

#### ON A PERSON WHO HAS NO CHILDREN, BUT HAS SISTERS

(2881) Jābir said: I fell ill, and I had seven sisters. The Apostle of Allah (may peace be upon him) came to me and blew on my face. So I became conscious. I said: Apostle of Allah, may I not bequeathe one-third of my property to my sisters? He replied: Do good. I asked: Half? He replied: Do good. He then went out and left me, and said: I do not think, Jābir, you will die of this disease. Allah has revealed (verses) and described the share of your sisters. He appointed two-thirds for them. Jābir used to say: This verse was revealed about me: "They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs."<sup>2297</sup>

(2882) Al-Barā' b. 'Āzib said: The last verse revealed about the deceased who left no descendants or ascendants: "They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs."<sup>2298</sup>

(2883) Al-Barā' b. 'Āzib said: A man came to the Prophet (may peace be upon him) and said: Apostle of Allah, they ask thee for a legal decision about a *kalālah*. What is meant by *kalālah*? He replied: The verse revealed in summer<sup>2299</sup> is sufficient for you. I asked Abū Ishāq: Does it mean a person who dies and leaves neither children nor father? He said: This is so. The people think it is so.

### Chapter 1074

#### ON THE SHARES OF CHILDREN FROM INHERITANCE

(2884) Huzail b. Shurahbīl al-Awadī said: A man came to Abū Mūsā al-Ash'arī

<sup>2296</sup>. The word *kalālah* has been explained in various manners. According to the majority of lexicographers, it means a deceased who has neither children nor father. This view is held by 'Alī and Ibn Mas'ūd. According to another view, it means a deceased who has no father. This view is held by 'Umar. A third view goes that it means a deceased who has no children. A fourth view is that it means a deceased who has no father and mother. A fifth view goes that it means a deceased who has neither parents nor children as heirs. This view is held by Abū Bakr.

The shares of a *kalālah* have been described in detail in verse iv. 176.

<sup>2297</sup>. Qur'ān, iv. 176.

<sup>2298</sup>. Qur'ān, iv. 176.

<sup>2299</sup>. The last verse of al-Nisā' (Sūrah iv.) was revealed in summer and the first verse in winter.

and Salmān b. Rabī'ah, and asked about a case where there were a daughter, a son's daughter and a full sister. They replied: The daughter gets half and the full sister gets half. The son's daughter gets nothing. Go to Ibn Mas'ūd and you will find that he agrees with me. So the man came to him and informed him about their opinion. He said: I would then be in error and not be one of those who are rightly guided. But I decide concerning the matter as the Apostle of Allah (may peace be upon him) did: the daughter gets half, and the son's daughter gets a share which complete two-thirds (i.e. gets a sixth), and what remains goes to the full sister.<sup>200</sup>

(2885) Jābir b. 'Abd Allah said: We went out with the Apostle of Allah (may peace be upon him) and came to a woman of the *Anṣār* in al-Aswāf.<sup>2301</sup> The woman brought her two daughters, and said: Apostle of Allah, these are the daughters of Thābit b. Qais who was killed as a martyr when he was with you at the battle of Uhud; their paternal uncle has taken all their property and inheritance, and he has not left anything for them. What do you think, Apostle of Allah? They cannot be married unless they have some property. The Apostle of Allah (may peace be upon him) said: Allah will decide regarding the matter. Then the verse of Sūrat al-Nisā; was revealed: "Allah (thus) directs you as regards your children's (inheritance)."<sup>2302</sup> The Apostle of Allah (may peace be upon him) said: Call to me the woman and her husband's brother. He then said to their paternal uncle: Give them two-thirds and their mother an eighth, and what remains is yours.

Abū Dāwūd said: The narrator Bishr made a mistake. They were the daughters of Sa'd b. al-Rabī' for Thābit b. Qais was killed in the battle of Yamāmah.

(2886) Jābir b. 'Abd Allah said: The wife of Sa'd b. al-Rabī' said: Apostle of Allah, Sa'd died and left two daughters. He then narrated the rest of the tradition in a similar way.

Abū Dāwūd said: This is the most correct tradition.

(2887) Al-Aswad b. Yazīd said: Mu'ādh b. Jabal gave shares of inheritance to a sister and a daughter. He gave each of them half. He was at Yemen while the Prophet of Allah (may peace be upon him) was alive.<sup>2303</sup>

2300. Thereupon Abū Mūsā replied: Do not question me as long as this learned man is among you. Abū Mūsā was wrong as he decided on the basis of his opinion, but Ibn Mas'ūd decided on the basis of a tradition of the Prophet (may peace be upon him).

2301. The name of the sacred territory of Medina.

2302. Qur'ān, iv. 11.

2303. The means that Mu'ādh b. Jabal must have decided this case with the consent of the Prophet (may peace be upon him).

*Chapter 1075*

## ON THE INHERITANCE OF GRANDMOTHER

(2888) Qablṣah b. Dhuwaib said: A grandmother came to Abū Bakr asking him for her share of inheritance. He said: There is nothing prescribed for you in Allah's Book, nor do I know anything for you in the *Sunnah* of the Prophet of Allah (may peace be upon him). Go home till I question the people. He then questioned the people, and al-Mughīrah b. Shu'bah said: I had been present with the Apostle of Allah (may peace be upon him) when he gave her a sixth. Abū Bakr said: Is there anyone with you? Muḥammad b. Maslamah stood and said the same as al-Mughīrah b. Shu'bah had said. So Abū Bakr made it apply to her. Another grandmother came to 'Umar b. al-Khaṭṭāb asking him for her share of inheritance. He said: Nothing has been prescribed for you in Allah's Book. The decision made before you was made for a grandmother<sup>2304</sup> other than you. I am not going to add in the shares of inheritance; but it is that sixth. If there are two of you, it is shared between you, but whichever of you is the only one left gets it all.

(2889) Buraidah said: The Prophet (may peace be upon him) appointed a sixth to a grandmother if no mother is left to inherit before<sup>2305</sup> her.

*Chapter 1076*

## ON THE SHARE OF GRANDFATHER FROM INHERITANCE

(2890) 'Imrān b. Ḥuṣayn said: A man came to the Prophet (may peace be upon him) and said: My son's son died; what do I receive from his estate? He replied: You receive a sixth. When he turned away he called him and said: You receive another sixth. When he turned away, he called him and said: The other sixth is an allowance (beyond what is due).<sup>2306</sup>

Qatādah said: They (the Companions) did not know the heirs with whom he was given (a sixth).

2304. It is not definitely known that the woman who came to Abū Bakr was father's mother or mother's mother. The versions of this tradition vary. Some indicate that she was mother's mother, and the grandmother who came to 'Umar was father's mother. Others mention *vice versa* ('*Awn al-Ma'būd*, III, 81).

2305. This means that if the mother of the deceased is alive, the grandmother will not get the share.

2306. The grandson had left two daughters and a grandfather. The daughters were entitled to two-thirds and the grandfather to a sixth. The Prophet (may peace be upon him) gave him another sixth as a favour, presumably there were no other heirs. Had he given him a third at the outset, he would have thought that the grandfather's share was a third.



Qatādah said: The minimum share given to the grandfather was a sixth.<sup>2307</sup>

(2891) Al-Ḥasan reported that 'Umar asked: Which of you knows what share the Apostle of Allah (may peace be upon him) had given to the grandfather from the estate? Ma'qil b. Yasār said: The Apostle of Allah (may peace be upon him) gave him a sixth. He asked: Along with whom? He replied: I do not know. He said: You do not know; what is the use then?

### Chapter 1077

#### ON THE SHARES OF AGNATES

(2892) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying: Divide the property among those whose shares have been prescribed in the Book of Allah, and what remains from the prescribed shares goes to the nearest male heir.<sup>2308</sup>

### Chapter 1078

#### SHARES OF THE RELATIVES ON THE MATERNAL SIDE<sup>2309</sup>

(2893) Al-Miqdām reported the Apostle of Allah (may peace be upon him) as saying: If anyone leaves a debt or a helpless family, I shall be responsible—and sometimes the narrator said: Allah and His Apostle will be responsible—but if anyone leaves property, it goes to his heirs. I am the heir of him who has none, paying

2307. The grandfather sometimes receives a sixth twice: once as an heir according to the shares prescribed in the Qur'ān, and again as an agnate.

2308. This tradition indicates how the property should be divided among the heirs of a deceased. The Qur'ān has prescribed shares for certain heirs. These shares are known as *fard'id*, and the heirs as *dhawī al-furūd*. Priority is given to them. What remains goes to the paternal relations known as *'asābah* (agnates). What remains from them goes to kindred relations known as *dhawī al-arḥām* (maternal relations). This division is according to Abū Ḥanīfah.

2309. *Dhawī al-arḥām* means relatives on the maternal side or kindred relations. They are daughter's children, children of son's daughter, sister's children, brother's daughters and paternal aunt's daughters and similar others. They are given shares from the residue after distributing the property among prescribed heirs and agnates. There is a difference of opinion among scholars about giving them share from the property of the deceased. A group of scholars hold that they will be given a share from the estate. This view is held by 'Umar, 'Alī, Ibn Mas'ūd, Abū 'Ubaidah b. al-Jarrāh, Mu'adh b. Jabal, Abū al-Dardā' and Ibn 'Abbās. 'Alqamah, al-Nakha'i, Shuraih, al-Ḥasan, Ibn Sirīn, 'Atā', Mujāhid, Abū Ḥanīfah, Abū Yūsuf and Muhammad also hold this view. Zaid b. Thābit and Ibn 'Abbās (according to a solitary report) hold that no share will be given to them from the property, but the residue will be deposited in the government treasury. Sā'id b. al-Musayyab, Sā'id b. Jubair, Mālik and al-Shāfi'i also hold this view (*Awn al-Ma'būd*, III, 82).

blood-wit for him and inheriting from him; and a maternal uncle is the heir of him who has none, paying blood-wit for him and inheriting from him.

(2894) Al-Miqdām al-Kindī reported the Apostle of Allah (may peace be upon him) as saying: I am nearer to every believer than himself, so if anyone leaves a debt or a helpless family, I shall be responsible, but if anyone leaves property, it goes to his heirs. I am patron of him who has none, inheriting his property and freeing him from his liabilities. A maternal uncle is patron of him who has none, inheriting his property and freeing him from his liabilities.

Abū Dāwūd said: *ḡal'ah* means dependants or helpless family.

Abū Dāwūd said: This tradition has been transmitted by al-Zubaidī from Rāshid b. Sa'd from Ibn 'Ā'idh on the authority of al-Miqdām. It has also been transmitted by Mu'āwiyah b. Ṣāliḥ from Rāshid who said: I heard al-Miqdām (say).

(2895) Al-Miqdām said: I heard the Apostle of Allah (may peace be upon him) say: I am the heir of him who has none, freeing him from his liabilities, and inheriting what he possesses. A maternal uncle is the heir of him who has none, freeing him from his liabilities, and inheriting his property.

(2896) 'Ā'ishah said: A client of the Prophet (may peace be upon him) died and left some property, but he left no child or relative. The Apostle of Allah (may peace be upon him) said: Give what he has left to a man belonging to his village.<sup>2310</sup>

Abū Dāwūd said: The tradition of Sufyān is more perfect. Musaddad said: Thereupon the Prophet (may peace be upon him) said: Is there anyone belonging to his land? They replied: Yes. He said: Then give him what he has left.

(2897) Buraidah said: A man came to the Apostle of Allah (may peace be upon him) and said: I have property left by a man of Azd. I do not find any man of Azd to give it to him. He said: Go and look for man of Azd for a year. He then came to him after one year and said: Apostle of Allah, I did not find any man of Azd to give it to him. He said: Look for a man of Khuzā'ah<sup>2311</sup> whom you meet first and give it to him. When he turned away, he said: Call the man to me. When he came to him, he said: Look for the leading man<sup>2312</sup> of Khuzā'ah and give it to him.

(2898) Buraidah said: A man of Khuzā'ah died and his estate was brought to the Prophet (may peace be upon him). He said: Look for his heir or some relative.

<sup>2310</sup>: If a man leaves no heir, his property should be deposited in the government treasury. The Prophet (may peace be upon him) gave his property to a man belonging to his village to fulfil his need as he was more entitled to it than other citizens.

<sup>2311</sup>. Banū Khuzā'ah is a clan of Banū Azd.

<sup>2312</sup>. *Kubr Khuzā'ah* may mean the greatest in rank or in age. This may also refer to the nearest in kin to the man's oldest ancestor, the one who has fewest immediate links.

This tradition indicates that if a man has no heir of his tribe, his property can be given to a man of the clan which is a branch of his tribe.

But they found neither heir nor relative. The Apostle of Allah (may peace be upon him) said : Give it to the leading man of Khuzā'ah.

The narrator Yaḥyā said : Sometimes I heard him (al-Ḥusain b. Aswad) say in this tradition : Look for the greatest man<sup>2313</sup> of Khuzā'ah.

(2899) Ibn 'Abbās said : A man died leaving no heir but a slave whom he had emancipated. The Apostle of Allah (may peace be upon him) asked : Has he any heir ? They replied : No, except a slave whom he had emancipated. The Apostle of Allah (may peace be upon him) assigned his estate to him (the emancipated slave).

### Chapter 1079

#### INHERITANCE OF A CHILD OF A WOMAN ABOUT WHOM SHE HAS INVOKED A CURSE ON HERSELF IF SHE WAS UNTRUE IN DECLARING HE WAS NOT BORN OUT OF WEDLOCK

(2900) Wāthilah b. al-Asqa' reported the Prophet (may peace be upon him) as saying : A woman gets inheritance from the three following : one she has set free, a foundling, and her child about whom she has invoked a curse on herself if she was untrue in declaring he was not born out of wedlock.<sup>2314</sup>

(2901) Makḥūl said : The Apostle of Allah (may peace be upon him) assigned the estate of a child of a woman about whom she had invoked a curse to her mother, and to her heirs after her.

(2902) 'Amr b. Shu'aib, on his father's authority, said that his grandfather reported from the Prophet (may peace be upon him) something similar.

### Chapter 1080

#### CAN A MUSLIM INHERIT FROM AN INFIDEL ?

(2903) Usāmah b. Zaid reported the Prophet (may peace upon him) as saying : A Muslim may not inherit from an infidel nor an infidel from a Muslim.<sup>2315</sup>

2313. *Aḥbar* : This might mean greatest or oldest, but it is more probably used here in the same sense as *ḥubr*.

2314. A woman gets inheritance from the child about whom she had invoked a curse. She thus negated his attribution to her by the process of *li'ān*. But it should be noted that a man will not get inheritance from such a child.

2315. Al-Nawawī said : Muslims are agreed that an infidel will not inherit from a Muslim. As regards the inheritance of a Muslim from an infidel, there is a difference of opinion amongst scholars. The majority of Companions and the successors hold that a Muslim too will not inherit from an infidel. But Mu'ādh b. Jabal, Mu'āwiyah, Sa'id b. al-Musayyab and Muṣrūq and others maintain

(2904) Usamah b. Zaid said : I said : Apostle of Allah, where will you stay tomorrow ? This (happened) during his *Hajj*. He replied : Has 'Aqil left any house for us ?<sup>2316</sup> He then said : We shall stay at the valley of Banū Kinānah where the Quraish took an oath on unbelief. This refers to al-Muḥaṣṣab. The reason is that Banū Kinānah made an alliance with the Quraish against Banū Hāshim that they would have no marital connections with them, nor will have commercial transactions with them, nor will give them any refuge.<sup>2317</sup>

Al-Zuhri said : *Khaif* means valley.

(2905) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying : people of two different religions may not inherit from one another.<sup>2318</sup>

(2906) Mu'adh said : I heard the Apostle of Allah (may peace be upon him) say : Islam increases and does not diminish. He, therefore, appointed a Muslim an heir (of a non-Muslim).<sup>2319</sup>

(2907) Abū al-Aswad al-Dīlī said : Mu'adh bought the property of a Jew whose heir was a Muslim.<sup>2320</sup> He then narrated a tradition from the Prophet (may peace be upon him) to the same effect.

that a Muslim inherits from an infidel. They argue from a tradition of the Prophet (may peace be upon him) which says : Islam dominates and is not dominated. It is also agreed that an apostate shall not inherit from a Muslim. But opinion is divided as regards the inheritance of a Muslim from an apostate. According to Mālik, al-Shāfi'i, Rabi'ah and Ibn Abī Lailā, he will not inherit from him. Abū Ḥanīfah maintains that whatever he earned during the state of his apostasy, that will go to the government treasury. Whatever he earned while he was a Muslim, that will go his Muslim heirs (*'Awn al-Ma'būd*, III, 84-85).

2316. Abū Ṭālib had four sons, 'Aqil, Ṭālib, Ja'far and 'Alī. When he died, 'Aqil and Ṭālib inherited from him because they had not embraced Islam as yet, but Ja'far and 'Alī were Muslim. They did not inherit from him. Hence 'Umar used to say that a Muslim does not inherit a non-Muslim. Abū Dāwūd narrated this tradition in support of this view.

2317. This is a well-known pact concluded between Banū Kinānah and the Quraish. By this they meant to boycott the Prophet (may peace be upon him). Banū Hāshim and Banū al-Muṭṭalib had to exile them from Mecca in a valley known as the valley of Banū Kinānah. But after some time this document was eaten by white ants. The Prophet (may peace be upon him) and his clan came back to Mecca.

2318. Two religions here refer to Islam and disbelief (i.e. other religions). As regards other religions, their believers may inherit from one another. Al-Awzā'i holds that a believer in one religion cannot inherit from the people of another religion. Jews, for instance, cannot inherit from Christians. It is disputed whether or not a Muslim can inherit from a non-Muslim.

2319. Mu'adh argues on the basis of this tradition that a Muslim inherits from an infidel and not *vice versa*.

2320. There were two heirs of a Jew, a Muslim and a Jew. Mu'adh gave his property to the Muslim heir following the tradition of the Prophet (may peace be upon him).

It may be noted that this tradition is weak, for hearing the traditions by Abū al-Aswad from Mu'adh is disputed and doubtful (*'Awn al-Ma'būd*, III, 85).

*Chapter 1081*ON A MAN WHO EMBRACES ISLAM BEFORE THE DIVISION  
OF THE PROPERTY

(2908) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying: An estate which was divided in pre-Islamic period may follow the division in force then, but any estate in Islamic times must follow the division laid down by Islam.<sup>2321</sup>

*Chapter 1082*RIGHT OF INHERITANCE OF THE PROPERTY OF  
A FREED SLAVE

(2909) Ibn 'Umar said: 'Ā'ishah, mother of the believers (Allah be pleased with her), intended to buy a slave-girl to set her free. Her people said: We shall sell her to you on condition that we shall inherit from her. 'Ā'ishah mentioned it to the Apostle of Allah (may peace be upon him). He said: That should not prevent you, for the right of inheritance belongs to the one who has set a person free.<sup>2322</sup>

(2910) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying: The right of inheritance belongs only to the one who has paid the price (of the slave) and patronised him by doing an act of gratitude.<sup>2323</sup>

(2911) 'Amr b. Shu'aib, on his father's authority, said that his grandfather reported: Rabāb b. Ḥudhaifah married a woman and three sons were born to him from her. Their mother then died. They inherited her houses and had the right of inheritance of her freed slaves. 'Amr b. al-'Āṣ was the agnate of her sons. He sent them to Syria where they died. 'Amr b. al-'Āṣ then came. A freed slave of her died and left property. Her brothers disputed him and brought the case to 'Umar b. al-Khaṭṭāb. 'Umar reported the Apostle of Allah (may peace be upon him) as saying: Whatever property a son or a father gets as an heir will go to their agnates, whoever they may be. He then wrote a document for him witnessed by 'Abd al-Raḥmān b. 'Awf, Zaid b. Thābit and on other person. When 'Abd al-Malik became caliph, they presented the case to Hishām b. Ismā'il or Ismā'il b. Hishām (the narrator is doubtful). He

2321. This means that the property divided before Islam according to the practice of those days will not be re-divided after Islam. But if a man embraces Islam, his property will be divided according to the Islamic injunctions.

2322. The condition in such a sale transaction is redundant. If a freed slave dies, his property will belong to his master who emancipated him, or to his heirs.

2323. This means that the right of inheritance belongs to a person who buys a slave and emancipates him. This opinion has been unanimously agreed by jurists. There is no difference of opinion among them.



sent them to 'Abd al-Malik who said: This is the decision which I have already seen. The narrator said: So he ('Abd al-Malik) made the decision on the basis of the document of 'Umar b. al-Khaṭṭāb, and that is with us till this moment.<sup>2324</sup>

### Chapter 1083

#### ON A MAN WHO EMBRACES ISLAM BY THE ADVICE AND PERSUASION OF A MUSLIM

(2912) Tamīm al-Dārī said: that he asked: Apostle of Allah. The narrator Yazīd said that Tamīm said: Apostle of Allah, what is the *sunnah* about a man who accepts Islam by advice and persuasion of a Muslim? He replied: He is the nearest to him in life and in death.<sup>2325</sup>

### Chapter 1084

#### ON SELLING THE RIGHT TO INHERITANCE BY A MANUMITTED SLAVE

(2913) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) forbade selling or giving away the right to inheritance by a manumitted slave.<sup>2326</sup>

### Chapter 1085

#### ON AN INFANT WHO RAISES ITS VOICE AND THEN DIES

(2914) Abū Hurairah reported the Prophet (may peace be upon him) as saying:

2324. This tradition shows that if a man gets the property of a freed slave as a right of inheritance, it will not be further divided among his heirs. But this case is disputed among scholars. For instance, if a man emancipates a slave, and then he dies, leaving two brothers or two sons, then one of his brothers or sons dies leaving a son, according to one view the property will be divided between his son and his grandson or his nephew; and according to another view it belongs to the son alone ('*Awn al-Ma'bad*, III, 86).

2325. The meaning of this tradition is ambiguous. This might mean that the man who persuades an unbeliever will inherit from him. This is held by Abū Ḥanīfah. But he stipulates that he should make an agreement with him. If there is no agreement, he will not inherit. The majority of jurists hold that he will not inherit. According to al-Shāfi'ī and Aḥmad, this tradition is weak, as the narrator 'Abd al-'Azīz is not reliable ('*Awn al-Ma'bad*, III, 87).

2326. This shows that the right to inheritance from a freed slave cannot be transferred as it is like inheritance from a blood-relation. The Arabs used to sell the right to inheritance from a freed slave: hence the Prophet (may peace be upon him) prohibited to do so.

When an infant has raised its voice (and then dies), it will be treated as an heir.<sup>2327</sup>

### Chapter 1086

#### ABROGATION OF INHERITANCE BY ALLIANCE BY THE COMMAND OF INHERITANCE BY RELATIONSHIP

(2915) Ibn 'Abbās said: To those also, to whom your right hand was pledged, give their due portion.<sup>2328</sup> A man made an agreement with another man (in early days of Islam), and there was no relationship between them; one of them inherited from the other. The following verse<sup>2329</sup> of Sūrat al-Anfāl abrogated it:<sup>2330</sup> "But kindred by blood have prior rights against each other."

(2916) Ibn 'Abbās explained the following Qur'ānic verse: "To those also, to whom your right hand was pledged, give due portion."<sup>2331</sup> When the Emigrants came to Medina, they inherited from the Helpers without any blood-relationship with them for the brotherhood which the Apostle of Allah (may peace be upon him) established between them. When the following verse was revealed: "To (benefit) everyone we have appointed shares and heirs to property left by parents and relatives,"<sup>2332</sup> it abrogated the verse: "To those also, to whom your right hand was pledged, give their due portion."<sup>2333</sup> This alliance was made for help, well-wishing and cooperation. Now a legacy can be made for him. (The right to) inheritance was abolished.<sup>2334</sup>

(2917) Dāwūd b. al-Ḥuṣayn said: I used to learn the reading of the Qur'ān from Umm Sa'd, daughter of al-Rabī'. She was an orphan in the guardianship of Abū Bakr. I read the Qur'ānic verse; "To those also to whom your right hand was pledged." She said: Do not read the verse;<sup>2335</sup> "To those also to whom your right hand was pledged." This was revealed about Abū Bakr and his son 'Abd al-Rahmān when

2327. This tradition indicates that a child gets the share of inheritance after its birth if it is alive. Raising its voice means symptoms showing its life, and not necessarily voice *per se*. This view is held by al-Thawrī, al-Auzā'ī, al-Shāfi'ī, and Abū Hanīfah. A group of scholars holds that raising of voice is necessary for inheritance. If an infant is born, survives for some time, but does not raise its voice, and then dies, it will not inherit (*'Awn al-Ma'būd*, III, 88).

2328. Qur'ān, iv. 33

2329. Qur'ān, viii. 75.

2330. In pre Islamic days two persons concluded a pact to help each other, and to inherit from each other. When Islam came this practice continued for some time. People who made such an agreement inherited from each other. But later on this commandment was repealed. Henceforth only blood-relationship was taken into consideration in respect of inheritance.

2331. Qur'ān, iv. 33.

2332. Qur'ān, iv. 33.

2333. Qur'ān, iv. 33.

2334. The *Muhājirīn* and *Anṣār* inherited from each other for the brotherhood established between them. But later on this commandment was repealed and only blood-relations inherited.

2335. Qur'ān iv. 33.

he refused to accept Islam. Abū Bakr took an oath that he would not give him a share from inheritance. When he embraced Islam Allah Most High commanded His Prophet (may peace be upon him) to give him the share.

The narrator 'Abd al-'Azīz added: He did not accept Islam until he was urged on Islam by sword.

Abū Dāwūd said: He who narrated the word '*aqadat*' meant a pact; and he who narrated the word '*āqadat*' meant the party who made a pact. The correct version is the tradition of Ṭalḥah ('*āqadat*').

(2918) Ibn 'Abbās (Allah be pleased with them) said referring to the verse: "Those who believed and adopted exile. . . . As to those who believed but came not into exile":<sup>2336</sup> A bedouin (who did not migrate to Medina) did not inherit from an emigrant, and an emigrant did not inherit from him. It was abrogated by the verse:<sup>2337</sup> "But kindred by blood have prior rights against each other."<sup>2338</sup>

## Chapter 1087

### ALLIANCE

(2919) Jubair b. Muṭ'im reported the Apostle of Allah (may peace be upon him) as saying: There is no alliance in Islam,<sup>2339</sup> and Islam strengthened the alliance made during pre-Islamic days.<sup>2340</sup>

(2920) Anas b. Mālik said: The Apostle of Allah (may peace be upon him) established an alliance (of brotherhood) between the Emigrants and the Helpers in our house. He was asked: Did not the Apostle of Allah (may peace be upon him) say: There is no alliance in Islam?<sup>2341</sup> He replied: The Apostle of Allah (may peace be upon him) established an alliance between the Emigrants and the Helpers in our

2336. Qur'ān, viii. 72

2337. Qur'ān, viii. 72.

2338. When Muslims migrated to Medina, the *Anṣār* and the *Muhājirūn* inherited from each other. Those who remained behind at Mecca and did not migrate to Medina were deprived of a share in the inheritance of their relatives. But this law of inheritance remained operative till the conquest of Mecca. When Mecca was captured, this law was repealed, and the people were allowed to get the share from the property of their relatives according to the verse: "But kindred by blood have prior rights against each other" (viii. 75).

2339. The alliance made for the purpose which contradicts the teachings of Islam is not allowed. For instance, alliance for plunder, robbery, murder, and tyranny is forbidden. Similarly inheriting from a person by alliance has been repealed. A man can get his share from the property of blood-relationship only.

2340. The alliance made for a noble cause in pre-Islamic days is valid. Alliance for mutual aid, cooperation and virtue is appreciated in Islam.

2341. This means that the alliance which aims at corruption and doing harm to others is not valid. In Islam an alliance is made for a good purpose and noble cause.

house. This he said twice or thrice.

### *Chapter 1088*

#### THE WIFE WILL INHERIT FROM THE BLOOD-WIT OF HER HUSBAND

(2921) Sa'Id said : 'Umar b. al-Khaṭṭāb said : Blood-money is meant for the clan of the slain, and she will not inherit from the blood-money of her husband. Al-Daḥḥāk b. Sufyān said : The Apostle of Allah (may peace be upon him) wrote to me that I should give a share to the wife of Ashyam al-Ḍubābī from the blood-money of her husband. So 'Umar withdrew his opinion.<sup>2342</sup>

Aḥmad b. Ṣālih said : 'Abd al-Razzāq transmitted this tradition to us from Ma'mar, from al-Zuhri on the authority of Sa'Id. In this version he said : The Prophet (may peace be upon him) made him<sup>2343</sup> governor over the bedouins.

2342. This shows that blood money is divided among the heirs of the slain. His wife will also get a share from the blood-money of her husband like other heirs. 'Umar made a decision on the basis of his opinion. Obviously the blood-money is not the property of the slain as it is paid after his death. Hence 'Umar thought that his wife would not inherit his blood-money. But he withdrew his decision when he learnt the tradition of the Prophet (may peace be upon him) about this question.

2343. Daḥḥāk b. Sufyān.

# XIII. KITĀB AL-KHARĀJ, WAL-FAI' WAL-IMARAH

[ BOOK OF TRIBUTE, SPOILS AND RULERSHIP ]

## Chapter 1089

### RIGHTS OF THE SUBJECTS ON A RULER

(2922) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon him) as saying : Each of you is a shepherd and each of you is responsible for his flock. The *amīr* (ruler) who is over the people is a shepherd and is responsible for his flock ; a man is a shepherd in charge of the inhabitants of his household and he is responsible for his flock ; a woman is a shepherdess in charge of her husband's house and children and she is responsible for them ; and a man's slave is a shepherd in charge of his master's property and he is responsible for it. So each of you is a shepherd and each of you is responsible for his flock.<sup>2344</sup>

## Chapter 1090

### ASKING FOR THE POSITION OF COMMANDER

(2923) 'Abd al-Raḥmān b. Samurah said : The Apostle of Allah (may peace be upon him) said to me : 'Abd al-Raḥmān b. Samurah, do not ask for the position of commander, for if you are given it after asking you will be left to discharge it yourself, but if you are given it without asking you will be helped to discharge it.<sup>2345</sup>

(2924) Abū Mūsā said : I went along with two men to see the Prophet (may peace be upon him). One of them recited *tashahhud*<sup>2346</sup> and said : We have come to you so that you may employ us for your work. The other also said the same thing. He

2344. This tradition indicates the duties and obligations of men in authority. There may be various categories and in each category every person in charge of the affairs will be responsible for his subordinates. He will be accountable for the rights of his subordinates in the Hereafter.

2345. The Prophet (may peace be upon him) has prohibited to ask for a responsible post. If a man asks for such a job, and he gets it, he will not be aided by Allah in his work due to his greed. But if a responsible job is entrusted to a man without asking, he may accept it, for Allah will help him in discharging the duty.

2346. I.e. praised Allah



(the Prophet) replied : The most faithless of you in our eyes is the one who asks for it (a responsible post). Abū Mūsā then apologised to the Prophet (may peace be upon him) and said : I did not know why they came to you. He did not employ them for anything until he died.<sup>2347</sup>

### Chapter 1091

#### TO PUT A BLIND MAN IN THE POSITION OF COMMANDER

(2925) Anas said : The Prophet (may peace be upon him) appointed Ibn Umm Maktūm as governor of Medina (in his absence) twice.<sup>2348</sup>

### Chapter 1092

#### APPOINTMENT OF A MINISTER

(2926) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying : When Allah has a good purpose for a ruler, He appoints for him a sincere minister who reminds him if he forgets and helps him if he remembers ; but when Allah has a different purpose from that for him, He appoints for him an evil minister who does not remind him if he forgets and does not help him if he remembers.<sup>2349</sup>

### Chapter 1093

#### BEING A CHIEF OF A TRIBE

(2927) Al-Miqdām b. Ma'dīkarab said : The Apostle of Allah (may peace be upon him) struck him on his shoulders and then said : You will attain success, Qudaim,<sup>2350</sup> if you die without having been a ruler, a secretary, or a chief.<sup>2351</sup>

2347. It is generally difficult to discharge the duty according to the will of the employer. Therefore, it is better to avoid seeking responsible posts. If any responsible job is entrusted to a man without begging it, Allah will help him in his work.

2348 This shows that if a blind man is capable of being a governor, he can be appointed to this. Ibn Umm Maktūm was blind, still the Prophet (may peace be upon him) appointed him governor of Medina. According to other reports, the Prophet (may peace be upon him) appointed him governor thirteen times when he was away in the battles.

2349. Success of a ruler depends mostly on his minister and consultant. Therefore it is necessary to appoint worthy and sincere ministers so that they may not deceive the ruler.

2350. This is a diminutive of Miqdām, the diminutive being used as an affectionate form of address.

2351. 'Arif means a man who is well acquainted with the conduct of the people of his tribe or locality. He is appointed by the ruler. He gives him information about the people when required.

The three offices mentioned in the tradition carry heavy responsibility. One may not fulfil the responsibility. The Prophet (may peace be upon him), therefore, persuaded to avoid them.

(2928) Ghālib al-Qaṭṭān quoted a man who stated on the authority of his father that his grandfather reported that they lived at one of the springs. When Islam reached them, the master of the spring asked his people to give them one hundred camels if they embraced Islam. So they embraced Islam, and he distributed the camels among them. But it occurred to him that he should take the camels back from them. He sent his son to the Prophet (may peace be upon him) and said to him : Go to the Prophet (may peace be upon him) and tell him : My father extends his greetings to you. He asked his people to give them one hundred camels if they embraced Islam, and they embraced Islam. He divided the camels among them. But it occurred to him then that he should withdraw his camels from them. Is he more entitled to them or we ? If he says : Yes or No, then tell him : My father is an old man, and he is the chief of the people living at the water. He has requested you to make me chief after him. He came to him and said : My father has extended his greetings to you. He replied : On you and on your father be peace. He said : My father asked his people to give them one hundred camels if they embraced Islam. So they embraced Islam, and their belief in Islam is good. Then it occurred to him that he should take his camels back from them. Is he more entitled to them or they ? He said : If he likes to give them the camels, he may give them ; and if he likes to take them back, he is more entitled to them than his people. If they embraced Islam, then for them is their Islam. If they do not embrace Islam, they will be fought for Islam. He said : My father is an old man ; he is the chief of the people living at the water. He has asked you to appoint me chief after him. He replied : The office of a chief is necessary, for people must have chiefs, but the chiefs will go to Hell.<sup>2352</sup>

### Chapter 1094

#### ON HAVING A SECRETARY

(2929) Ibn 'Abbās said : The Prophet (may peace be upon him) had a secretary named Sijill.<sup>2353</sup>

### Chapter 1095

#### ON COLLECTING *ZAKĀT*

(2930) Rāfi' b. Khadīj said : I heard the Apostle of Allah (may peace be upon

2352. By this he means that the office of a chief is no doubt useful and necessary for knowing the conduct of the people. A ruler depends on him in getting information about the people. But this is a very responsible office. It involves the rights of the people. A chief may be negligent in performing his duty sincerely. This may lead him to Hell. Therefore, it is better to avoid such responsible offices.

2353 He was an Abyssinian. Not much is known about his life. This tradition shows that a man can have a secretary for his private works.

him) say : The official who collects *ṣadaqah* (*zakāt*) in a just manner is like him who fights in Allah's path till he returns home.<sup>2354</sup>

(2931) 'Uqbah b. 'Āmir said : I heard the Apostle of Allah (may peace be upon him) as saying : One who wrongfully takes an extra tax (*ṣāhib maks*) will not enter Paradise.<sup>2355</sup>

(2932) Ibn Ishāq said : *Ṣāhib maks* means one who (receives) tithes (from) people.

### Chapter 1096

#### ON APPOINTING A SUCCESSOR BY A CALIPH

(2933) Ibn 'Umar reported : 'Umar said : I shall not appoint a successor, for the Apostle of Allah (may peace be upon him) did not appoint any successor. If I appoint a successor (I can do so), for Abū Bakr had appointed a successor. He (Ibn 'Umar) said : I swear by Allah, he did not mention (anyone) but the Apostle of Allah (may peace be upon him) and Abū Bakr. So I learnt that he would not equate anyone with the Apostle of Allah (may peace be upon him), for he did not appoint any successor.<sup>2356</sup>

### Chapter 1097

#### ON TAKING THE OATH OF ALLEGIANCE

(2934) Ibn 'Umar said : We used to take the oath of allegiance to the Prophet (may peace be upon him) to hear and obey, and he would tell us : In what I am able.<sup>2357</sup>

(2935) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) never touched the hand of a woman, but he received the oath of allegiance from her. When he received the oath of allegiance from her, she gave it to him, and he said : Go, I

2354. This tradition shows the reward for discharging one's official duty sincerely.

2355. *Ṣāhib maks* : *Maks* was money taken from sellers in the market in pre-Islamic times. It is used of an extra tax taken by a tax-collector. The Prophet (may peace be upon him) in this tradition has threatened the collectors of *zakāt* if they take over and above what is due.

2356. A caliph is allowed to appoint his successor as Abū Bakr had done, or to leave it to the people to appoint him themselves, as the Prophet (may peace be upon him) had done. 'Umar adopted a *via media*. He appointed an electoral college comprising six persons to elect a caliph. They elected 'Uthmān as a caliph. He is considered to have been elected by the people, as the six persons represented them.

2357. This was out of kindness to the community that the Prophet (may peace be upon him) asked the Muslims to hear and obey him according to their ability. He did not demand obedience beyond one's capacity.

have received your oath of allegiance.<sup>2358</sup>

(2936) 'Abd Allah b. Hishām, who was a Companion, reported that his mother Zainab daughter of Ḥumaid went to the Apostle of Allah (may peace be upon him) and said : Apostle of Allah, receive the oath of allegiance from him. The Apostle of Allah (may peace be upon him) said : He is a minor. He then wiped his head.<sup>2359</sup>

### Chapter 1098

#### ON GIVING PROVISION TO THE OFFICIAL EMPLOYEES

(2937) Buraidah reported the Prophet (may peace be upon him) as saying : When we appoint someone to an administrative post and provide him with an allowance, anything he takes beyond that is unfaithful dealing.<sup>2360</sup>

(2938) Ibn al-Sā'idī said : 'Umar appointed me to collect the *sadaqah* (i.e. *zakāt*). When I became free, he ordered to give me payment for it. I said : I have worked for the sake of Allah. He said : Take what you have been given, for I held an administrative post in the time of the Apostle of Allah (may peace be upon him), and he gave me payment for it.

(2939) Al-Mustawrid b. Shaddād said that he heard the Prophet (may peace be upon him) say : He who acts as an employee for us must get a wife ; if he has not a servant, he must get one, and if he has not a dwelling, he must get one.<sup>2361</sup>

He said that Abū Bakr reported : I was told that the Prophet (may peace be upon him) said : He who takes anything else he is unfaithful or thief.

### Chapter 1099

#### PRESENTS FOR EMPLOYEES

(2940) Abū Ḥumaid al-Sā'idī said : The Prophet (may peace be upon him) appointed a man of Azd called Ibn al-Lutbiyyah (to collect *sadaqah*). The narrator

2358. When men took the oath of allegiance, they put their hand in the hand of the Prophet (may peace be upon him). But he did not touch the hand of women. He received their oath of allegiance verbally.

2359. This shows that it is not necessary for minors to take the oath of allegiance.

2360. This tradition shows that it is not permissible for an employee to take anything from the property of the employer without his consent except his salary.

2361. This shows that the Government in the Islamic State provides basic needs of life to its employees. It makes arrangements for their marriage, and provides a servant and a house. These facilities are given to them in addition to salary, or such a handsome salary is given to them that their basic needs are fulfilled.

The word *dmīl* in this tradition may mean an employee or a governor.

Ibn al-Sarḥ said : (He appointed) Ibn al-Utblyyah to collect the *ṣadaqah*. When he returned he said : This is for you and this was given to me as a present. So the Prophet (may peace be upon him) stood on the pulpit, and after praising and extolling Allah he said : What is the matter with a collector of *ṣadaqah*. We send him (to collect *ṣadaqah*), and when he returns he says : This is for you and this is a present which was given to me. Why did he not sit in his father's or mother's house and see whether it would be given to him or not ? Whoever takes any of it will inevitably bring it on the Day of Resurrection, be it a camel which rumbles, an ox which bellows, or sheep which bleats. Then raising his arms so that we could see the place where the hair grow under his armpits, he said : O Allah, have I given full information ? O Allah, have I given full information ?<sup>2362</sup>

### Chapter 1100

#### UNFAITHFUL DEALING IN *ṢADAQAH*

(2941) Abū Mas'ūd al-Anṣārī said : The Prophet (may peace be upon him) appointed me to collect *ṣadaqah* and then said : Go, Abū Mas'ūd, I should not find you on the Day of Judgment carrying a camel of *ṣadaqah* on your back, which rumbles, the one you have taken by unfaithful dealing in *ṣadaqah*. He said : If it is so, I will not go. He said : Then I do not force you.<sup>2363</sup>

### Chapter 1101

#### THE DUTIES OF A RULER CONCERNING PUBLIC AFFAIRS, AND KEEPING HIMSELF AWAY FROM THE PEOPLE

(2942) Abū Maryam al-Azdī said : When I entered upon Mu'āwiyah, he said : How good your visit is to us, O father of so-and-so. This is an idiom used by the Arabs (on such occasions). I said : I tell you a tradition which I heard (from the Prophet). I heard the Apostle of Allah (may peace be upon him) say : If Allah puts anyone in the position of authority over the affairs of the Muslims, and he secludes himself (from them), not fulfilling their needs, wants, and poverty, Allah will keep Himself away from him, not fulfilling his need, want and poverty. He said : He

2362. This tradition shows that a collector of *ṣadaqah* or an employee is not allowed to accept any present. If he accepts it, he should give it to the employer, for he is given this present on account of his position.

2363. The Prophet (may peace be upon him) warned Abū Mas'ūd that there was a danger of taking bribe in collecting *sadaqah*. He should accept this job if he has full confidence in himself that he will not take bribe. If he has not confidence, he should not accept such a post.



(Mu'āwiyah) appointed a man to fulfil the needs of the people.<sup>2364</sup>

(2943) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : It is not on my own that I give you or withhold from you : I am just a treasurer, putting it where I have been commanded.<sup>2365</sup>

(2944) Mālik b. Aws b. al-Hadthān said : One day 'Umar b. al-Khaṭṭāb mentioned the spoils of war and said : I am not more entitled to this spoil of war than you ; and none of us is more entitled to it than another, except that we occupy our positions fixed by the Book of Allah, Who is Great and Glorious, and the division made by the Apostle of Allah (may peace be upon him), people being arranged according to their precedence in accepting Islam, the hardships they have endured their having children and their need.<sup>2366</sup>

### Chapter 1102

#### ON THE DIVISION OF *Fai'*<sup>2367</sup> (SPOILS)

(2945) Zaid b. Aslam said : 'Abd Allah b. 'Umar entered upon Mu'āwiyah. He asked : (Tell me) your need, Abū 'Abd al-Raḥmān. He replied : Giving (the spoils) to those who were set free, for I saw the first thing the Apostle of Allah (may peace be upon him) did when anything came to him was to give something to those who had been set free.<sup>2368</sup>

(2946) 'Ā'ishah said : The Prophet (may peace be upon him) was brought a pouch containing beads and divided it among free women and slave women. 'Ā'ishah said : My father used to divide things between free men and slaves.

2364. This tradition shows the duties of a ruler. A Muslim ruler is required to look after the affairs of the people and fulfil their needs. The early four caliphs set an example of a true Muslim ruler. They never concealed themselves from the people. Their gates were always open to public.

2365. The Prophet (may peace be upon him) made these remarks when he distributed the spoils of war. He distributed the booty equally among the warriors. If he gave to someone for his bravery or for some other reason, he did so by the command of Allah.

2366. 'Umar held the view that the spoils (*fai'*) should not be divided into five portions, but it should be distributed among Muslims. There will be not superiority of one over another in respect of basic needs. Priority will be given according to their ranks defined in the Qur'ān or by the Prophet (may peace be upon him). Priority might be fixed on account of precedence in accepting Islam, bravery in fighting for the cause of Islam, need and poverty, and dependants. ('*Awān al-Ma'būd*, III, 96).

2367. *Fai'* is the term used for tribute from territory the Muslims have conquered without fighting.

2368. While distributed the spoils (*fai'*) among Muslims the Prophet (may peace be upon him) would give priority to freed slaves, for their names were not recorded in the register. Thus sometimes they were deprived.

(2947) 'Awf b. Mālik said: When the spoils (*fai'*) came to the Apostle of Allah (may peace be upon him), he divided it that day; he gave two portions to a married man and one to a bachelor. The narrator Ibn al-Muṣaffā added: We were summoned, and I would be summoned before 'Ammār. So I was summoned and he gave me two portions, for I had a family; then 'Ammār b. Yāsir was summoned after me and given one.<sup>2369</sup>

### Chapter 1103

#### ON GIVING PROVISIONS TO THE CHILDREN OF THE MUSLIMS

(2948) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying: I am nearer to the believers than themselves, so if anyone leaves property, it goes to his heirs, and if anyone leaves debt and dependants, let the matter come to me and I shall be responsible.<sup>2370</sup>

(2949) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: If anyone leaves property, it goes to his heirs: and if anyone leaves dependants (without resources), they come to us.

(2950) Jābir b. 'Abd Allah reported the Prophet (may peace be upon him) as saying: I am nearer to every believer than himself, and if anyone leaves, it goes to his heirs.

### Chapter 1104

#### THE AGE OF A FIGHTER TO ENTITLE HIM TO A SHARE FROM THE BOOTY

(2951) Nāfi' reported that Ibn 'Umar was presented before the Prophet (may peace be upon him) on the day of Uḥud, when he was fourteen years old, but he did not allow him. He was again presented to him on the day of Khandaq (the battle of Trench) when he was fifteen years old, he allowed him.<sup>2371</sup>

2369. This shows that the Prophet (may peace be upon him) used to give shares from the *fai'* (spoils) according to the needs of the people.

2370. If a man dies and leaves debt, it will be paid from his property, before its distribution among the heirs. If he has no property it will be paid from the *fai'*. Similarly, the government will be responsible for the maintenance of the children if their father left no property.

2371. This shows that men of age were accepted for participating in *jihad*. Children below fifteen years were not accepted to fight in battles. Moreover, the share from the booty was given to the people who were fifteen or more, and not to minors.

*Chapter 1105*DISAPPROVAL OF ACCEPTING PRESENTS OF THE RULERS  
IN THE LAST DAYS

(2952) Sulaim b. Muṭair reported on the authority of his father that Muṭair went out to perform *Ḥajj*. When he reached al-Suwaidā', a man suddenly came searching for medicine and ammonium anthurizum extract, and he said: A man who heard the Apostle of Allah (may peace be upon him) addressing the people commanding and prohibiting them, told me that he said: O people, accept presents so long as they remain present; but when the Quraish quarrel about the rule, and the presents are given for the religion of one of you, then leave them.<sup>2372</sup>

Abū Dāwūd said: This tradition has been transmitted by Ibn al-Mubārak from Muḥammad b. Yasār from Sulaim b. Muṭair.

(2953) Muṭair said: I heard a man say: I heard the Apostle of Allah (may peace be upon him) in the Farewell Pilgrimage. He was commanding and prohibiting them (the people). He said: O Allah, did I give full information? They said: Yes. He said: When the Quraish quarrel about the rule among themselves, and the presents become bribery, then leave them. The people were asked: Who was he (who narrated this tradition)? They said: This was Dhū al-Zawā'id, a Companion of the Apostle of Allah (may peace be upon him).

*Chapter 1106*ON REGISTERING NAMES OF PERSONS WHO  
RECEIVE STIPENDS

(2954) 'Abd Allah b. Ka'b b. Mālik al-Anṣārī said: An expedition of the *Anṣār* was operating in Persia with their leader. 'Umar used to send expeditions by turns every year, but he neglected them. When the term expired, the people of the expedition appointed on the frontier came back. He ('Umar) took serious action against them and threatened them, though they were the Companions of the Apostle of Allah (may peace be upon him). They said: 'Umar you neglected us, and abandoned the practice for which the Apostle of Allah (may peace be upon him) commanded to send the detach-

2372. This means that if the rulers give presents sincerely out of respect and sympathy, it is permissible to accept them. But when the rulers use them as bribe and blackmailing, people should not accept them.

ments by turns.<sup>2373</sup>

(2955) A son of 'Adī b. 'Adī al-Kindī said that 'Umar b. 'Abd al-Azīz wrote (to his governors): If anyone asks about the places where spoils (*fai'*) should be spent, that should be done in accordance with the decision made by 'Umar b. al-Khaṭṭāb (Allah be pleased with him). The believers considered him to be just, according to the saying of the Prophet (may peace be upon him): Allah has placed truth upon 'Umar's tongue and heart. He fixed stipends for Muslims, and provided protection for the people of other religions by levying *jizyah* (pool-tax) on them, deducting no fifth from it, nor taking it as booty.<sup>2374</sup>

(2956) Abū Dharr said: I heard the Apostle of Allah (may peace be upon him) say: Allah, the Exalted, has placed truth on 'Umar's tongue and he speaks it.<sup>2375</sup>

### Chapter. 1107

#### ON APPOINTING A SPECIAL PORTION IN THE PROPERTY OF *FAI'* BY THE APOSTLE OF ALLAH (MAY PEACE BE UPON HIM)

(2957) Mālik b. Aws b. al-Ḥadathān said: 'Umar sent for me when the day rose high. I found him sitting on a couch without any cover. When I entered upon him, he said: Mālik, some people of your tribe gradually came here,<sup>2376</sup> and I have ordered to give them something, so distribute it among them. I said: If you assigned this (work) to some other person, (it would be better). He said: Take it. Then Yarfā<sup>2377</sup> came to him and said: Commander of the Faithful, will you permit 'Uthmān b. Affān, 'Abd al-Raḥmān b. 'Awf, al-Zubair b. al-'Awwām, and Sa'd b. Abī Waqqāṣ (to enter)? He said: Yes. So he permitted them and they entered. Yarfā<sup>2377</sup> again came to him and said: Commander of the Faithful, would you also permit al-'Abbās and 'Alī? He said: Yes. He then permitted them and they entered. Al-'Abbās said: Commander of the Faithful, decide<sup>2378</sup> between me and this, referring to 'Alī. Some of them said:

2373. The registration of the names of the people participating in the army was first introduced by 'Umar. When their names were registered, they could get their salaries, and called back from their duty.

2374. This shows that *jizyah* falls within *fai'*. The fifth is not taken out of *fai'* like the booty. It is distributed among the Muslims.

2375. This tradition indicates the merits and excellence of 'Umar. Hence 'Umar b. 'Abd al-'Azīz followed him in respect of his prescriptions.

2376. As famine prevailed in the territory of the tribe of Mālik b. Aws, people came to Medina one by one, seeking financial help.

2377. The name of 'Umar's door-keeper. Earlier he was his slave.

2378. 'Abbās and 'Alī came to 'Umar to give them their share from the property of the Prophet (may peace be upon him). His property comprised three things: lands left by Banū al-Nadīr, Khaybar and Fadak. The Prophet (may peace be upon him) kept these things for his maintenance and

Yes, Commander of the Faithful, decide between them and give them comfort. Mālik b. Aws said: It occurred to me that both of them brought the other people for this. 'Umar said: Show patience (do not make haste). He then turned towards those people and said: I adjure you by Allah by Whose order the heaven and earth stand. Do you know that the Apostle of Allah (may peace be upon him) said: We are not inherited, whatever we leave is *ṣadaqah* (alms). They said: Yes. He then turned towards 'All and al-'Abbās and said: I adjure you by Allah by Whose order the heaven and earth stand. Do you know that the Apostle of Allah (may peace be upon him) said: We are not inherited. Whatever we leave is *ṣadaqah* (alms). They said: Yes. He then said: Allah has appointed for the Apostle of Allah (may peace be upon him) a special portion (in the booty) which he did not do for anyone. Allah, Most High, said: "What Allah has bestowed on His Apostle (and taken away) from them—for this ye made no expedition with either cavalry or camelry. But Allah gives power to His apostles over any He pleases; and Allah has power over all things"<sup>23</sup> 9 Allah bestowed (the property of) Banū al-Naḍīr on His Apostle. I swear by Allah, he did not reserve it for himself, nor did he take it over and above you. The Apostle of Allah (may peace be upon him) used to take his share for his maintenance annually, or used to take his contribution and give his family their annual contribution (from this property), then take what remained and deal with it as he did with Allah's property. He then turned towards those people and said: I adjure you by Allah by Whose order the heaven and earth stand. Do you know that? They said: Yes. He then turned towards al-'Abbās and 'All and said: I adjure you by Allah by Whose order the heaven and earth stand. Do you know that? They said: Yes. When the Apostle of Allah (may peace be upon him) died, Abū Bakr said: I am the protector of the Apostle of Allah (may peace be upon him). Then you and this ('All) came to Abū Bakr, demanding a share from the inheritance of your cousin, and this ('All) demanding the share of his wife from (the property of her) father. Abū Bakr then said: The Apostle of Allah (may peace be upon him) said: We are not inherited. Whatever we leave is *ṣadaqah*. Allah knows that he (Abū Bakr) was true, faithful, rightly-guided, and follower of Truth. Abū Bakr then administered it (property of the Prophet). When Abū Bakr died, I said: I am the protector of the Apostle of Allah (may peace be upon him) and of Abū Bakr. So I administered whatever Allah wished. Then you and this ('All) came. Both of you are at one, and your matter is the same. So they asked me for it (property),

the maintenance of his wives. After taking out his share from this property, he spent the remainder on the Muslims, i.e. the poor emigrants, purchase of weapons and horses. He divided this property into three sections, two for Muslims and one for his family. 'Umar did not give this property to his heirs, as the Prophet (may peace be upon him) himself said that he left no property of his own. Whatever he left was *ṣadaqah*.



and I said: If you wish I give it to you on condition that you are bound by the covenant of Allah, meaning that you will administer it as the Apostle of Allah (may peace be upon him) used to administer.<sup>2380</sup> So you took it from me on that condition. Then again you have come to me so that I decide between you other than that. I swear by Allah, I shall not decide between you other than that till the Last Hour comes. If you are helpless, return it to me.

Abū Dāwūd said: They asked him for making it half between them, and not that they were ignorant of the fact that the Prophet (may peace be upon him) said: We are not inherited. Whatever we leave is *ṣadaqah* (alms). They were also seeking the truth. 'Umar then said: I do not apply the name of division to it; I leave it on its former condition.

(2958) Narrating this tradition Mālik b. Aws said: They i.e. 'Alī and al-'Abbās (Allah be pleased with them), were quarrelling about what Allah bestowed on His Apostle (may peace be upon him), that is, the property of Banū al-Naḍīr.

Abū Dāwūd said: He ('Umar) intended that the name of division should not apply to it.

(2959) 'Umar said: The properties of Banū al-Naḍīr were part of what Allah bestowed on His Apostle from what the Muslims had not ridden on horses or camels to get; so they belonged specially to the Apostle of Allah (may peace be upon him) who gave his family their annual contribution.

Ibn 'Abdah said: His family (*ahlīhi*) and not the members of his house (*ahl baltīhi*); then applied what remained for horses and weapons in Allah's path.<sup>2381</sup>

(2960) Al-Zuhri reported: 'Umar said explaining the verse: "What Allah has bestowed on His Apostle (and taken away) from them—for this ye made no expedition with either cavalry or camelry,"<sup>2382</sup> this belonged specially to the Apostle of Allah (may peace be upon him): lands of 'Urainah,<sup>2383</sup> Fadak,<sup>2384</sup> and *ṣ-w-ard-ṣ-w*. What Allah has bestowed on His Apostle (and taken away) from the people of the townships—belongs to Allah—to the Apostle, and to kindred and orphans, the needy and the wayfarer, to the indigent emigrants, those who were expelled from their homes and their property, and to those who, before them, had homes (in Medina),

2380. 'Abbās and 'Alī wanted that the property of the Prophet (may peace be upon him) should be distributed among them as his heirs. They did not want that it should be given to them under their management only, and not as their property. But 'Umar refused to do so.

2381. The Prophet (may peace be upon him) kept the properties of Banū al-Naḍīr for his own purposes. Fadak was for travellers, and Khaibar was divided into three sections, two for Muslims and one as a contribution for his family. If anything remained, he divided it among the poor emigrants.

2382. Qur'ān, lix. 6.

2383. The name of a place near Syria.

2384. Fadak was near Khaibar. It capitulated without fighting.

and had adopted the faith, and to those who came after them.<sup>2385</sup> This verse completely covered all the people ; there remained no one from Muslims but he had his right in it, or share (according to Ayyūb's version) except the slaves.<sup>2486</sup>

(2961) Mālik b. Aws al-Hadathān said : One of the arguments put forward by 'Umar was that he said that the Apostle of Allah (may peace be upon him) received three things exclusively to himself : Banū al-Naḍīr, Khaibar and Fadak. The Banū al-Naḍīr property was kept wholly for his emergent needs,<sup>2387</sup> Fadak for travellers, and Khaibar was divided by the Apostle of Allah (may peace be upon him) into three sections : two for Muslims, and one as a contribution for his family. If anything remained after making the contribution to his family, he divided it among the poor Emigrants.

(2962) 'Ā'ishah, wife of the Prophet (may peace be upon him), said : Fāṭimah daughter of the Apostle of Allah (may peace be upon him) sent a messenger to Abū Bakr demanding from him the inheritance of the Apostle of Allah (may peace be upon him) from what Allah bestowed on him at Medina and Fadak, and what remained of the fifth of Khaibar. Abū Bakr said : The Apostle of Allah (may peace be upon him) has said : We are not inherited. Whatever we leave is *ṣadaqah*. The family of Muḥammad will eat from this property. I swear by Allah I shall not change it from the former condition of its being *ṣadaqah* as it was in the time of the Apostle of Allah (may peace be upon him). I shall deal with it as the Apostle of Allah dealt with it. Abū Bakr, therefore, refused to give anything to Fāṭimah from it.<sup>2388</sup>

(2963) 'Ā'ishah, wife of the Prophet (may peace be upon him), said : At that time Fāṭimah was demanding (the property of) *ṣadaqah* of the Apostle of Allah (may peace be upon him) at Medina and Fadak, and what remained from the fifth of Khaibar. 'Ā'ishah quoted Abū Bakr as saying : The Apostle of Allah (may peace be upon him) said : We are not inherited ; whatever we leave is *ṣadaqah*. The family of Muḥammad will eat from this property, that is, from the property of Allah. They will not take more than their sustenance.

(2964) Narrating the above tradition, 'Ā'ishah added : Abū Bakr refused that to her. He said : I am not going to leave anything the Apostle of Allah (may peace be upon him) used to do but that I shall carry it out. I fear if I depart a little from his

2385 This refers to the Qur'ānic verses, lix. 7-10.

2386. The property of *fai*' belongs to all Muslims. The fifth is not deducted from it like booty. It is distributed among Muslims equally. But the slaves have no right in it, for their master receives the share.

2387. This covered personal needs, the cost of entertaining guests, providing weapons.

2388. Abū Bakr following the tradition of the Prophet (may peace be upon him), refused to give Fāṭimah her share from the property of the Prophet (may peace be upon him). Instead, he gave her provision from the government treasury for her maintenance.

practice, I shall diverge (from the right path). As regards his *ṣadaqah* (property) at Medina, 'Umar had given it to 'Alī and 'Abbās (Allah be pleased with them), and 'Alī dominated it. As for Khaibar and Fadak, 'Umar retained them. He said : They were the *ṣadaqah* (property) of the Apostle of Allah (may peace be upon him), exclusively reserved for his purposes that happened, and for his emergent needs. Their management was assigned to the one who was in authority. He said : They are in that condition to the present day.

(2965) Al-Zuhri, explaining the verse "For this you made no expedition with either cavalry or camelry",<sup>2389</sup> said : The Prophet (may peace be upon him) concluded the treaty of peace with the people of Fadak and townships which he named which I could not remember ; he blockaded some other people who sent a message to him for capitulation. He said : "For this you made no expedition with either cavalry or camelry" means without fighting. Al-Zuhri said : The Banū al-Naḍīr property was exclusively kept for the Prophet (may peace be upon him) ; they did not conquer it by fighting, but conquered it by capitulation. To Prophet (may peace be upon him) divided it among the Emigrants. He did not give anything to the Helpers except two men who were needy.

(2966) Al-Mughīrah (b. Shu'bah) said : 'Umar b. 'Abd al-'Azīz gathered the family of Marwān when he was made caliph, and he said : Fadak belonged to the Apostle of Allah (may peace be upon him), and he made contribution from it, showing repeated kindness to the poor of the Banū Hāshim from it, and supplying from it the cost of marriage for those of them who were unmarried. Fāṭimah asked him to give it to her, but he refused. That is how matters stood during the lifetime of the Apostle of Allah (may peace be upon him) till he went his way (i.e. died). When Abū Bakr was made ruler he administered it as the Prophet (may peace be upon him) had done in his lifetime till he went his way. Then when 'Umar b. al-Khaṭṭāb was made ruler he administered it as they had done till he went his way. Then it was given to Marwān as a fief, and it afterwards came to 'Umar b. 'Abd al-'Azīz. 'Umar b. 'Abd al-'Azīz said : I consider I have no right to something which the Apostle of Allah (may peace be upon him) refused to Fāṭimah, and I call you to witness that I have restored it to its former condition ; meaning in the time of the Apostle of Allah (may peace be upon him).<sup>2390</sup>

Abu Dāwūd said : When 'Umar b. 'Abd al-'Azīz was made caliph its revenue

2389. Qur'ān, lix. 6.

2390. 'Uthmān gave Fadak as a fief to Marwān, for he himself took the responsibility of the Prophet's (may peace be upon him) family with regard to their maintenance. Thus the revenue of Fadak was not needed for them. This was 'Uthmān's own view about Fadak. But 'Umar b. 'Abd al-'Azīz differed with him. He restored it to its former condition, and it again became inalienable property reserved for public benefit.

was forty thousand dīnārs, and when he died its revenue was four hundred dīnārs. Had he remained alive, it would have been less than it.

(2967) Abū al-Ṭufail said : Fāṭimah came to Abū Bakr asking him for the inheritance of the Prophet (may peace be upon him). Abū Bakr said : I heard the Apostle of Allah (may peace be upon him) say : If Allah, Most High, gives a Prophet some means of sustenance, that goes to his successor.<sup>2391</sup>

(2968) Abū Hurairah reported the Prophet (may peace be upon him) as saying : Do not distribute dīnārs among my heirs : whatever I left after contribution to my wives and provisions for my governor<sup>2392</sup> is *ṣadaqah* (alms).

Abū Dāwūd said : *ʿAmil* means the workers or labourers on the land (i.e. peasants).

(2969) Abū al-Bakhtari said : I heard from a man a tradition which I liked. I said to him : Write it for me. So he brought it to me clearly written. (It says) : Al-ʿAbbās and ʿAlī entered upon ʿUmar when Ṭalḥah, al-Zubair, ʿAbd al-Raḥmān and Saʿd were with him. They (ʿAbbās and ʿAlī) were disputing. ʿUmar said to Ṭalḥah, al-Zubair, ʿAbd al-Raḥmān and Saʿd : Do you not know that the Apostle of Allah (may peace be upon him) said : All the property of the Prophet (may peace be upon him) is *ṣadaqah* (alms), except what he provided for his family for their sustenance, and clothed them. We are not inherited. They said : Yes, indeed. He said : The Apostle of Allah (may peace be upon him) used to spend from his property on his family, and give the residue as *ṣadaqah* (alms). The Apostle of Allah (may peace be upon him) then died, and Abū Bakr ruled for two years. He would deal with it in the same manner as the Apostle of Allah (may peace be upon him) would do. He then mentioned a little from the tradition of Mālik b. Aws.

(2970) ʿĀʾishah said : When the Apostle of Allah (may peace be upon him) died, the wives of the Prophet (may peace be upon him) intended to send ʿUthmān b. ʿAffān to Abū Bakr to ask him for their cost of living from (the inheritance of) the Prophet (may peace be upon him). Thereupon ʿĀʾishah said : Did not the Apostle of Allah (may peace be upon him) say : We are not inherited. Whatever we leave is *ṣadaqah*.

(2971) A similar tradition has been narrated by Ibn Shihāb through a different chain of narrators. This version says : I said : Do you not fear Allah ? Did you not hear the Apostle of Allah (may peace be upon him) say : We are not inherited. Whatever we leave is *ṣadaqah* (alms). This property belongs to the family of Muḥammad

2391. A prophet does not come in this world to amass wealth. His mission is to guide the people. Whatever he earns for his living goes to his successor and not his heirs.

2392. *ʿAmil* as a broad term is used for governor, collector of *zakāt*, servant, labourer, and caliph. It is more probable that the term here refers to the successor of the Prophet (may peace be upon him), i.e. caliph.

for their emergent needs and their guest. When I die, it will go to him who becomes ruler after me.

### Chapter 1108

#### ON THE DIVISION OF THE FIFTH TAKEN BY THE PROPHET (MAY PEACE BE UPON HIM) FROM BOOTY AND THE SHARE OF HIS RELATIVES

(2972) ubāir b. Muṭ'im said that he and 'Uthmān b. 'Affān went to the Apostle of Allah (may peace be upon him) talking with him about the fifth which he divided among the Banū Hāshim and Banū 'Abd al-Muṭṭalib. I said: Apostle of Allah, you have divided (the fifth) among our brethren Banū 'Abd al-Muṭṭalib, but you have not given us anything, though our relationship to you is the same as theirs. The Prophet (may peace be upon him) said: The Banū Hāshim and the Banū 'Abd al-Muṭṭalib are one. Jubair said: He did not divide the fifth among the Banū 'Abd Shams and the Banū Nawfal<sup>2393</sup> as he divided among the Banū Hāshim and the Banū 'Abd al-Muṭṭalib. He said: Abū Bakr used to divide the fifth like the division of the Apostle of Allah (may peace be upon him) except that he did not give the relatives of the Apostle of Allah (may peace be upon him), as he gave them.<sup>2394</sup> 'Umar b. al-Khaṭṭāb and 'Uthman after him used to give them (a portion) from it.

(2973) Jubair b. Muṭ'im said: The Apostle of Allah (may peace be upon him) did not divide the fifth among the Banū 'Abd Shams and Banū Nawfal as he divided among the Banū Hāshim and Banū 'Abd al-Muṭṭalib. He said: Abū Bakr used to divide (the fifth) like the division of the Apostle of Allah (may peace be upon him), except that he did not give the relatives of the Apostle of Allah as the Apostle of Allah (may peace be upon him) himself gave them. 'Umar used to give them (from the fifth) and those who followed him.

(2974) Jubair b. Muṭ'im said: On the day of Khaibar the Apostle of Allah (may peace be upon him) divided the portion of his relatives among the Banū Hāshim and Banū al-Muṭṭalib, and omitted the Banū Nawfal and Banū 'Abd Shams.

2393. According to the Qur'ānic injunction, the fifth should be divided among all the relatives of the Prophet (may peace be upon him). But he did not give a portion to Banū 'Abd Shams and Banū Nawfal. Various reasons have been given for this by commentators. One of them is that a portion was to be given only to those relatives who assisted the Prophet (may peace be upon him) and not to all.

2394. The relatives of the Prophet (may peace be upon him) at that time might be well off and did not need the share from the fifth, otherwise 'Umar and 'Uthmān gave them share from the fifth during their caliphate. According to Mālik and al-Shāfi'i, the relatives of the Prophet (may peace be



So I and 'Uthmān b. 'Affān<sup>2395</sup> went to the Prophet (may peace be upon him), and we said: Apostle of Allah, these are Banū Hāshim whose superiority we do not deny because of the position in which Allah has placed you in relation to them; but tell us about our brethren of the Banū al-Muṭṭalib to whom you have given something while omitting us though our relationship is the same as theirs.<sup>2396</sup> The Apostle of Allah (may peace be upon him) said: There is no distinction between us and Banū al-Muṭṭalib in pre-Islamic days and in Islam. We and they are one, and he (may peace be upon him) intertwined his fingers.

(2975) Explaining the relatives of the Prophet (may peace be upon him) al-Sadīq said: They are Banū 'Abd al-Muṭṭalib.

(2976) Ibn Shihāb said: Yazīd b. Hurmuz said that when Najdat al-Ḥarūrī performed *Hajj* during the rule of Ibn al-Zubair, he sent someone to Ibn 'Abbās to ask him about the portion of the relatives<sup>2397</sup> (in the fifth). He asked: For whom do you think? Ibn 'Abbās replied: For the relatives of the Apostle of Allah (may peace be upon him). The Apostle of Allah (may peace be upon him) divided it among them. 'Umar presented it to us but we found it less than our right. We, therefore returned it to him and refused to accept it.<sup>2398</sup>

(2977) 'Abd al-Rahmān b. Abī Lailā said: I heard 'Alī say: The Apostle of Allah (may peace be upon him) assigned me the fifth of the fifth (of the booty). I spent it on its beneficiaries during the lifetime of the Apostle of Allah (may peace be upon him) and of Abū Bakr and of 'Umar. Some property was brought to him ('Umar) and he called me and said: Take it. I said: I do not want it. He said: Take it; you have right to it. I said: We do not need it. So he deposited it in the government treasury.

(2978) 'Alī said: I, al-'Abbās, Fāṭimah and Zaid b. Ḥārithah gathered with the Prophet (may peace be upon him) and I said: Apostle of Allah, if you think to assign us our right (portion) in this fifth (of the booty) as mentioned in the Book of Allah,<sup>2399</sup> and this I may divide during your lifetime so that no one may dispute me after you, then do it. He said: He did that. He said: I divided it during the lifetime of the Apostle of Allah (may peace be upon him). Abū Bakr then assigned it to me. During

upon him) have their right in the fifth. The Ḥanafīs hold that they have no share ('*Awn al-Ma'būd*, III, 106).

2395. Jubair b. Muṭ'im belonged to Banū Nawfal and 'Uthmān to Banū 'Abd Shams.

2396. These were all descendants of 'Abd Manāf.

2397. This refers to the fifth share of booty assigned to the near relatives as occurred in verse viii. 41.

2398. 'Umar might have given them a share equal to that of other Muslims. But they deserved a special share, i.e. a fifth, from the fifth of the booty.

2399. Qur'ān, viii. 41.

the last days of the caliphate of 'Umar a good deal of property came to him and took out our portion I said to him: We are well to do this year; but the Muslims are needy, so return it to them. He, therefore, returned it to them. No one called me after 'Umar. I met al-'Abbās when I came out from 'Umar. He said: 'Alī, today you have deprived us of a thing that will never be returned to us.<sup>2400</sup> He was indeed a man of wisdom.

(2979) 'Abd al-Muṭṭalib b. Rabī'ah b. al-Ḥārith said that his father Rabī'ah b. al-Ḥārith and 'Abbās b. al-Muṭṭalib said to 'Abd al-Muṭṭalib b. Rabī'ah and al-Faḍl b. 'Abbās: Go to the Apostle of Allah (may peace be upon him) and tell him: Apostle of Allah, we have reached the age as you see, and we like to marry. Apostle of Allah, you are most kind of the people and most joining the ties of relationship. Our fathers have nothing to pay our dower. So appoint us collector of *ṣadaqah* (*zakāt*), Apostle of Allah, and we shall give you what the other collectors give you, and we shall have the benefit accruing from it.<sup>2401</sup> 'Alī came to us while we were in this condition. He said: The Apostle of Allah (may peace be upon him) said: No, I swear by Allah, he will not appoint any of you collector of *ṣadaqah* (*zakāt*). Rabī'ah said to him: This is your condition; you have gained your relationship with the Apostle of Allah (may peace be upon him) by marriage, but we did not grudge you for that. 'Alī then put his cloak on the earth and lay on it. He then said: I am the father of Ḥasan, the chief. I swear by Allah, I shall not leave this place until your sons come with a reply (to the question) for which you have sent them to the Prophet (may peace be upon him). 'Abd al-Muṭṭalib said: So I and al-Faḍl went towards the door of the apartment of the Prophet (may peace be upon him). We found that the noon prayer in congregation had already started. So we prayed along with the people. I and al-Faḍl then hastened towards the door of the apartment of the Prophet (may peace be upon him). He was (staying) with Zainab daughter of Jahsh that day. We stood at the door until the Apostle of Allah (may peace be upon him) came. He caught my ear and the ear of al-Faḍl. He then said: Reveal what you conceal in your hearts. He then entered and permitted me and al-Faḍl (to enter). We then entered and for a little while we asked each other to talk. I then talked to him, or al-Faḍl talked to him (the narrator 'Abd Allah doubted). He said: He spoke to him about the matter for which our fathers ordered us. The Apostle of Allah (may peace be upon him) kept silence for a moment and raised his eyes towards the ceiling of the room, until it took us too long that we thought he would not give any reply to us, and meanwhile we saw that

2400. 'Abbās meant that 'Umar was a pious man. He used to give the family of the Prophet (may peace be upon him) their portion of the fifth. His successors might not give them their due.

2401. This means that they will give the revenue of *ṣadaqah* to the Prophet (may peace be upon him) and will have themselves their monthly salary or the presents that are not part of *ṣadaqah*.

Zainab was signalling us with her hand from behind the veil asking us not to hasten, and that the Apostle of Allah (may peace be upon him) was (thinking) about our matter. The Apostle of Allah (may peace be upon him) then lowered his head and said to us: This *ḡadaqah* (*zakāt*) is a dirt of the people.<sup>2402</sup> It is legal neither for Muḥammad nor for the family of Muḥammad<sup>2403</sup> call Nawfal b. al-Ḥārith to me. So Nawfal b. al-Ḥārith was called to him. He said: Nawfal, marry 'Abd al-Muṭṭalib (to your daughter). So Nawfal married me (to his daughter). The Prophet (may peace be upon him) then said: Call Maḥmīyyah b. Jaz'i to me. He was a man of Banū Zubaid whom the Apostle of Allah (may peace be upon him) appointed collector of the fifths. The Apostle of Allah (may peace be upon him) said to Maḥmīyyah: Marry al-Faḍl (to your daughter). So he married him. The Apostle of Allah (may peace be upon him) said: Stand up and pay the dower from the fifth so-and-so on their behalf. 'Abd Allah b. al-Ḥārith did not name it (i.e. the amount of dower).

(2980) 'Alī b. Abī Ṭālib said: I had an old she-camel that I got as my share from the booty on the day of Badr. The Apostle of Allah (may peace be upon him) also gave me an old she-camel from the fifth that day. When I intended to cohabit with Fārimah daughter of the Apostle of Allah (may peace be upon him), I made arrangement with a man who was a goldsmith belonging to Banū Qainuqā' to go with me so that we might bring grass. I intended to sell it to the goldsmiths thereby seeking help in my wedding feast. While I was collecting for my old camels saddles, baskets, and ropes, both of my she-camels were seated in a corner of the apartment of a man of the *Anṣār*. When I collected what I collected (i.e. equipment) I turned (towards them). I suddenly found that the humps of my she-camels were cut off, and their hips were pierced, and their livers were taken out. I could not control my eyes (to weep) when I saw that scene. I said: Who has done this? They (the people) replied: Ḥamzah b. 'Abd al-Muṭṭalib. He is among the drunkards of the *Anṣār* in this house. A singing girl is singing for him and his companions. While singing she said: Oh, Ḥamzah, rise to these plump old she-camels. So he jumped to the sword, and cut off their humps, pierced their hips, and took out their livers. 'Alī said: I went till I entered upon the Apostle of Allah (may peace be upon him), while Zaid b. Ḥārithah was with him. The Apostle of Allah (may peace be upon him) realised what I had met with. The Apostle of Allah (may peace be upon him) said: What is the matter with you? I said: Apostle of Allah, I never saw the thing that happened to me today. Ḥamzah wronged my she-camels; he cut off their humps and pierced their hips. Lo! he is in a house with drunkards. The Apostle of Allah asked for his cloak. It was brought to him. He then went out and I and Zaid b. Ḥārithah followed him until we reached the

2402. *Zahāt* purifies the property. Hence it has been called dirt of the people.

2403. Acceptance of *zahāt* is not lawful for Banū Hāshim as it is dirt of the people. Abū Ḥanīfah thinks that they can take *zahāt* as a share from the fifth is not given to them these days.

house where Ḥamzah was. He asked permission (to enter). He was permitted. He found drunkards there. The Apostle of Allah (may peace be upon him) began to rebuke him (Ḥamzah) for his action. Ḥamzah was intoxicated and his eyes were reddish. Ḥamzah looked at the Apostle of Allah (may peace be upon him). He then raised his eyes and looked at his knees; he then raised his eyes and looked at his navel; he then raised his eyes and looked at his face. Ḥamzah then said: Are you but the slaves of my father? Then the Apostle of Allah (may peace be upon him) knew that he was intoxicated. So the Apostle of Allah (may peace be upon him) moved backward. He then went out and we also went out with him.

(2981) Umm al-Ḥakam or Ḍubā'ah, daughters of al-Zubair b. 'Abd al-Muṭṭalib, said: Some captives of war were brought to the Apostle of Allah (may peace be upon him). I and my sister Fāṭimah, daughter of the Apostle of Allah (may peace be upon him), went (to the Prophet), and complained to him about our existing condition. We asked him to order (to give) us some captives. The Apostle of Allah (may peace be upon him) said: The orphans of the people who were killed in the battle of Badr came before you (and they asked for the captives). But I tell you something better than that. You should utter "Allah is Most Great" after each prayer thirty-three times, "Glory be to Allah" thirty-three times, "Praise be to Allah" thirty-three times, and 'There is no god but Allah alone, He has no associate, the Kingdom belongs to Him, and praise is due to Him, and He has power over all things' once.<sup>2404</sup>

The narrator 'Ayyāsh said: They were daughters of the uncle of the Prophet (may peace be upon him).

(2982) Ibn 'A'bud said: 'All said to me: May I not narrate you about me and Fāṭimah daughter of the Apostle of Allah (may peace be upon him)? She was most favourite to him of his family. I said: Yes. He said: She pulled the grinding-stone with her hand so much so that it affected her hand, she carried water in a water-bag so much so that it affected the upper portion of her chest; she swept the house so much so that her clothes became dirty. The Prophet (may peace be upon him) acquired some slaves. So I said: Would that you go to your father and ask him for a slave. She then came to him and found some people with him talking to him. She, therefore, returned. Next day she again came. He asked (her): What was your need? But she kept silence. So I said: I inform you, Apostle of Allah. She pulled grinding-stone so much so that it affected her hand; she carried water-bag so much so that it affected the upper portion of her chest. When the slaves were brought to you I asked her to come to you and to ask you for a slave to save her from the exertion she is suffering. He said: Fear

2404. The Prophet (may peace be upon him) gave slaves to the orphans whose fathers had died in the battle of Badr, and they were more entitled to them. He pointed out a benediction to Fāṭimah. By reciting this supplication after prayers the works of a man become easier for him, or he will carry reward for reciting this supplication in the Hereafter



Allah, Fāṭimah, and perform the duty of your Lord, and do the work of your family. When you go to bed, say "Glory be to Allah" thirty-three times, "Praise be to Allah" thirty-three times, and "Allah is Most Great" thirty-four times. This is hundred times. That will be better for you than a servant. She said : I am pleased with Allah, Most High, and with His Apostle (may peace be upon him).

(2983) The tradition mentioned above has also been transmitted by 'Alī b. Ḥusain through a different chain of narrators. This version adds : He (the Prophet) did not provide her with a slave.

(2984) Muḥjā'ah said that he went to the Prophet (may peace be upon him) asking him for the blood-money of his brother whom Banū Sadūs from Banū Dhuhl had killed. The Prophet (may peace be upon him) said : Had I appointed blood-wit for a polytheist, I would have appointed it for your brother. But I shall give you compensation for him. So the Prophet (may peace be upon him) wrote (a document) for him that he should be given a hundred camels which were to be acquired from the first fifth taken from the polytheists of Banū Dhuhl. So he took a part of them, for Banū Dhuhl embraced Islam. He then asked Abū Bakr for them later on, and brought to him the document of the Prophet (may peace be upon him). So Abū Bakr wrote for him that he should be given one thousand two hundred ṣā's from the *ṣadaqah* of al-Yamāmah ; four thousand (ṣā's of) wheat, four thousand (ṣā's of) barley, and four thousand (ṣā's of) dates. The text of the document written by the Prophet (may peace be upon him) for Muḥjā'ah goes : "In the name of Allah, the Beneficent, the Merciful. This document is from Muḥammad, the Prophet, to Muḥjā'ah b. Mirārah of Banū Sulmā. I have given him one hundred camels from the first fifth acquired from the polytheists of Banū Dhuhl as a compensation for his brother."<sup>2405</sup>

### Chapter 1109

#### ON THE SPECIAL PORTION OF THE PROPHET (MAY PEACE BE UPON HIM) TAKEN EXCLUSIVELY BY HIM FROM THE BOOTY

(2985) 'Āmir al-Sha'bi said : The Prophet (may peace be upon him) had a special portion in the booty called *ṣafi*. This would be a slave if he desired, or a slave-girl if he desired, or a horse if he desired. He would choose it before taking out the fifth.<sup>24 6</sup>

2405. This tradition indicates that if a polytheist is killed by infidels or Muslims, there is not blood-wit for him, except for a polytheist who resides in the Muslim territory under the protection of Muslims, and he pays poll-tax. If a non-Muslim kills him, there will be retaliation or blood-money. If a Muslim kills him, only blood-money will be paid.

2406. *Ṣafi* was the property of choice selected by the Prophet (may peace be upon him) before taking the fifth from the booty. This was a special portion appointed by Allah for the Prophet (may peace be upon him).



(2986) Ibn 'Awn said : I asked Muḥammad about the portion of the Prophet (may peace be upon him) and *ṣafi*. He replied : A portion was taken for him along with the Muslims, even if he did not attend (the battle), and *ṣafi* (special portion) was taken from the fifth before everything.<sup>2407</sup>

(2987) Qatādah said : When the Apostle of Allah (may peace be upon him) participated in a battle, there was for him a special portion which he took from where he desired. Ṣafīyyah was from that portion. But when he did not participate himself in his battle, a portion was taken out for him, but he had no choice.<sup>2408</sup>

(2988) 'Ā'ishah said : Ṣafīyyah was called after the word *ṣafi* (a special portion of the Prophet).<sup>2409</sup>

(2989) Anas b. Mālik said : We came to Khaibar. When Allah bestowed the conquest of fortress (on us), the beauty of Ṣafīyyah, daughter of Ḥuyayy was mentioned to him (the Prophet). Her husband was killed (in the battle) and she was a bride. The Apostle of Allah (may peace be upon him) chose her for himself. He came out with her till we reached Sadd al-Ṣahbā',<sup>2410</sup> where she was purified. So he cohabited with her.

(2990) Anas b. Mālik said : Ṣafīyyah first fell to Dihyat al-Kalbi, then she fell to the Apostle of Allah (may peace be upon him).<sup>2411</sup>

(2991) Anas said : A beautiful slave-girl<sup>2412</sup> fell to Dihyah. The Apostle of Allah (may peace be upon him) purchased her for seven slaves. He then gave her to Umm Sulaim<sup>2413</sup> for decorating her and preparing her for marriage. The narrator Ḥammād said : I think he said : Ṣafīyyah daughter of Ḥuyayy should pass her waiting period in her (Umm Sulaim's) house.<sup>2414</sup>

(2992) Anas said : Captives were gathered at Khaibar. Dihyah came and said : Apostle of Allah, give me a slave-girl from the captives. He said : Go and take a

2407. What is correct is that the special portion was not taken from the fifth. It was taken from the booty before the fifth as the tradition of al-Sha'bī shows.

2408. Ṣafīyyah was the daughter of Ḥuyayy b. Akḥṭal, a Jew of Khaibar. After the conquest of Khaibar, the Prophet (may peace be upon him) took her from the booty as his special portion. Later on she became his wife.

2409. Al-Nawawī is of view that her name was Ṣafīyyah before she was captivated. Some scholars hold that her name was Zainab, and she was called Ṣafīyyah as the Prophet (may peace be upon him) took her as his special portion ('Awn al-Ma'bud. III, 112).

2410. The name of a place.

2411. Earlier Ṣafīyyah was given to Dihyat al-Kalbi as his share from the booty. Later on he was given another slave-girl. The Prophet (may peace be upon him) emancipated Ṣafīyyah and married her.

2412. This refers to Ṣafīyyah daughter of Ḥuyayy.

2413. She was mother of Anas b. Mālik.

2414. As Ṣafīyyah was already married and her husband had been killed, it was necessary for her to wait till she was purified for remarriage.

slave-girl. He took Ṣafīyyah daughter of Ḥuyayy. A man then came to the Prophet (may peace be upon him) and said : You gave Ṣafīyyah daughter of Ḥuyayy, chief lady of Quraizah and al-Naḍīr to Dihyah ? This is according to the version of Ya'qūb. Then the agreed version goes : She is worthy of you. He said : Call him along with her. When the Prophet (may peace be upon him) looked at her, he said to him : Take another slave-girl from the captives. The Prophet (may peace be upon him) then set her free and married her.<sup>2415</sup>

(2993) Yazīd b. 'Abd Allah said : We were at Mirbad.<sup>2416</sup> A man with dishevelled hair having a piece of red skin in his hand came. We said : You look to be a bedouin. He said : Yes. We said : Give us this piece of skin in your hand. He then gave it to us and we read it. That contained the text : "From Muḥammad, Apostle of Allah (may peace be upon him), to Banū Zuhair b. Uqaish. If you bear witness that there is no god but Allah, and that Muḥammad is the Apostle of Allah, offer prayer, pay *zakāt*, pay the fifth from the booty, and the portion of the Prophet (may peace be upon him) and his special portion (*ṣafi*), you will be protected by the protection of Allah and His Apostle." We then asked : Who wrote this document for you ? He replied : The Apostle of Allah (may peace be upon him).<sup>2417</sup>

## Chapter 1110

### HOW THE JEWS WERE EXPELLED FROM MEDINA

(2994) Ka'b b. Mālīk who was one of those whose repentance was accepted said: Ka'b b. al-Ashraf<sup>2418</sup> used to satire the Prophet (may peace be upon him), and incited the infidels of the Quraish against him. When the Prophet (may peace be upon him) came to Medina, its people were intermixed : some of them were Muslims, and

2415. There may be various reasons for this change of slave-girls. First, the Prophet (may peace be upon him) might have done so with the consent of Dihyah. Secondly, he permitted Dihyah to take a slave-girl, and not to choose the best one. Thirdly, Ṣafīyyah was the daughter of a chief of her tribe. It was not proper to give her to an ordinary Companion. She must have been given to the chief. Fourthly, if she were married to Dihyah, she would not respect Dihyah, and this might result in perpetual quarrel and dispute between them. Hence the Prophet (may peace be upon him) himself took her, and gave him another slave-girl.

2416. The name of a place.

2417. This shows that the special portion (*ṣafi*) of the Prophet (may peace be upon him) was an additional share given to him by his choice in the beginning. He then took the fifth of the booty. This was a separate share. After taking out these two shares, the booty was divided among the warriors.

2418. Ka'b b. al-Ashraf was a Jew. He was chief of Banī al-Naḍīr. He was a fatal enemy of the Prophet (may peace be upon him). He would abuse and satire the Prophet (may peace be upon him) and the Muslims.

others polytheists who worshipped idols, and some were Jews. They used to hurt the Prophet (may peace be upon him) and his Companions. Then Allah Most High commanded His Prophet to show patience and forgiveness. So Allah revealed about them: "And ye shall certainly hear much that will grieve you, from those who received Book before you."<sup>2419</sup> When Ka'b b. al-Ashraf, refused to desist from hurting the Prophet (may peace be upon him), the Prophet (may peace be upon him) ordered Sa'd b. Mu'adh to send a band to kill him. He sent Muḥammad b. Maslamah and mentioned the story of his murder. When they killed him, the Jews and the polytheists were frightened. Next day they came to the Prophet (may peace be upon him) and said: Our companion was attacked at night and killed. The Prophet (may peace be upon him) informed them about that which he would say. The Prophet (may peace be upon him) then called them so that he could write a deed of agreement between him and them and they should fulfil its provisions and desist from hurting him. He then wrote a deed of agreement between him and them and the Muslims in general."<sup>2420</sup>

(2995) Ibn 'Abbās said: When the Apostle of Allah (may peace be upon him) had victory over Quraish in the battle of Badr and came to Medina, he gathered the Jews in the market of Banū Qainuqā' and said: O community of Jews, embrace Islam before you suffer an injury as the Quraish suffered. They said: Muḥammad, you should not deceive yourself (taking pride) that you had killed a few persons of the Quraish who were inexperienced and did not know how to fight. Had you fought with us, you would have known us. You have never met people like us. Allah Most High revealed about this the following verse: "Say to those who reject Faith: Soon will ye be vanquished . . . one army was fighting in the cause of Allah, the other resisting Allah."<sup>2421</sup>

(2996) Muḥayyiṣah said: The Apostle of Allah (may peace be upon him) said: If you gain a victory over the men of Jews, kill them. So Muḥayyiṣah jumped over Shubaibah, a man of the Jewish merchants. He had close relations with them. He then killed him. At that time Huwayyiṣah (brother of Muḥayyiṣah) had not embraced Islam. He was older than Muḥayyiṣah. When he killed him, Huwayyiṣah beat him and said: O enemy of Allah, I swear by Allah, you have a good deal of fat in your belly from his property."<sup>2422</sup>

2419. Qur'ān, iii. 186.

2420. This time the Prophet (may peace be upon him) concluded a pact with the Jews. When Khaibar was conquered in 6 A.H., the strength of the Jews was weakened. Still they were a cause of trouble for the Muslims. Hence Umar expelled them to Syria.

2421. Qur'ān, iii. 12-13.

2422. Muḥayyiṣah killed Shubaibah by the order of the Prophet (may peace be upon him). His brother who was not a Muslim taunted him for killing him by deception. Further, he had intimate association with him. He, therefore, must have used his property to which he referred.

(2997) Abū Hurairah said : While we were in the mosque, the Apostle of Allah (may peace be upon him) came out and said : Come on to the Jews. So we went out with him and came to them. The Apostle of Allah (may peace be upon him) stood up, called them, and said : If you, the community of Jews, accept Islam, you will be safe. They said : You have given the message, Abū al-Qāsim. The Apostle of Allah (may peace be upon him) said : Accept Islam, you will be safe. They said : You have given the message, Abū al-Qāsim. The Apostle of Allah (may peace be upon him) said : That I intended. He then said the third time : Know that the land belongs to Allah and His Apostle, and I intend to deport you from this land ; so if any of you has property (he cannot take it away), he must sell it ; otherwise know that the land belongs to Allah and His Apostle (may peace be upon him).<sup>2423</sup>

### *Chapter 1111*

#### ON THE STORY OF BANŪ AL-NAḌĪR

(2998) 'Abd al-Raḥmān b. Ka'b b. Mālik reported on the authority of a man from among the Companions of the Prophet (may peace be upon him) : The infidels of the Quraish wrote (a letter) to Ibn Ubayy and to those who worshipped idols from al-Aws and al-Khazraj, while the Apostle of Allah (may peace be upon him) was at that time at Medina before the battle of Badr. (They wrote) : You gave protection to our companion. We swear by Allah, you should fight with him or expell him, or we shall come to you with full force, until we kill your fighters and appropriate your women. When this (news) reached 'Abd Allah b. Ubayy and those who were worshippers of idols with him they gathered together to fight with the Apostle of Allah (may peace be upon him). When this news reached the Apostle of Allah (may peace be upon him), he visited them and said : The threat of the Quraish to you has reached its end. They cannot contrive a plot against you more than what you yourselves intend to harm you. Are you willing to fight with your sons and brethren. When they heard this from the Prophet (may peace be upon him), they scattered. This reached the infidels of the Quraish. The infidels of the Quraish again wrote (a letter) to the Jews after the battle of Badr : You are men of weapons and fortresses. You should fight with our companion or we shall deal with you so-and-so. And nothing will come in between us and the anklets of your women. When their letter reached the Prophet (may peace be upon him), they gathered Banū al-Naḍīr to violate the treaty. They sent a message to the

2423. It appears that the Jews whom the Prophet (may peace be upon him) advised to sell their immovable property were those who remained at Khaibar after the expulsion of Banū Qainuqā', al-Naḍīr and Quraizah. He allowed them to work on their land. Finally, he intended to expel them from Arabia and allowed them to dispose of their property. But this work was completed during the caliphate of 'Umar.

Prophet (may peace be upon him): Come out to us with thirty men from your Companions, and thirty rabbis will come out of us till we meet at a middle place where they will hear you. If they testify you and believe in you, we shall believe in you. The narrator then narrated the whole story. When the next day came, the Apostle of Allah (may peace be upon him) went out in the morning with an army, and surrounded them. He told them: I swear by Allah, you will not be peaceful for me until you conclude a treaty with me. But they refused to conclude a treaty with him. He, therefore, fought with them the same day. Next he attacked Banū Quraizah with an army in the morning, and left Banū al-Naḍīr. He asked them to sign a treaty and they signed it. He turned away from them and attacked Banū al-Naḍīr with an army. He fought with them until they agreed on expulsion. Banū al-Naḍīr were deported, and they took with them whatever their camels could carry, that is, their property, gates of their houses, and their wood. Palm-trees were exclusively reserved for the Apostle of Allah (may peace be upon him). Allah bestowed them upon him and gave him as a special portion. He (Allah), the Exalted, said: What Allah has bestowed on His Apostle (and taken away) from them, for this ye made no expedition with either camelry or cavalry."<sup>2424</sup> He said: "Without fighting." So the Prophet (may peace be upon him) gave most of it to the Emigrants and divided it among them; and of it he divided between two men of the Helpers who were needy and he did not divide it among any of the Helpers other than the two. The rest of it survived as the *ṣadaqah* of the Apostle of Allah (may peace be upon him) which is in the hands of the descendants of Fāṭimah (Allah be pleased with her).<sup>2425</sup>

(2999) Ibn 'Umar said: The Jews al-Naḍīr and Quraizah fought with the Apostle of Allah (may peace be upon him), so the Apostle of Allah (may peace be upon him) expelled Banū al-Naḍīr, and allowed the Quraizah to stay and favoured them. The Quraizah thereafter fought (with the Prophet). So he killed their men and divided their women, property and children among Muslims, except some of them who associated with the Apostle of Allah (may peace be upon him). He gave them protection, and later on they embraced Islam. The Apostle of Allah (may peace be upon him) expelled all the Jews of Medina *in toto*: Banū Qainuqā', they were the people of 'Abd Allah b. Salam, the Jews of Banū Ḥārithah, and any of Jews who resided in Medina.<sup>2426</sup>

2424. Qur'ān, lix. 6.

2425. Banū al-Naḍīr were expelled from Arabia in the year 4 A.H. Before them Banū Qainuqā' were deported. A portion of the property of Banū al-Naḍīr was divided among poor Emigrants and the rest was retained by the Prophet (may peace be upon him) for the maintenance of his family and other public needs.

2426. As the Jews constantly violated the agreements made with the Prophet (may peace be upon him) and they were a perpetual cause of trouble for Muslims, the Prophet (may peace be upon him) expelled them from Medina. Finally, 'Umar completed this work.



*Chapter 1112***ON THE LAW ABOUT THE LAND OF KHAIBAR**

(3000) Ibn 'Umar said: The Prophet fought with the people of Khaibar, and captured their palm-trees and land, and forced them to remain confined to their fortresses. So they concluded a treaty of peace providing that gold, silver and weapons would go to the Apostle of Allah (may peace be upon him), and whatever they took away on their camels would belong to them, on condition that they would not hide, and carry away anything. If they do (so), there will be no protection for them and no treaty (with the Muslims). They carried away a purse<sup>2427</sup> of Huyayy b. Akhtab, who was killed before (the battle of) Khaibar. He took away the ornaments of Banū al-Naḍīr when they were expelled. The Prophet (may peace be upon him) asked Sa'yah:<sup>2428</sup> Where is the purse of Huyayy b. Akhtab? He replied: The contents of this purse were spent in battles and other expenses. (Later on) they found the purse. So he killed Ibn Abī al-Ḥuqaiq, captivated their women and children, and intended to deport them. They said: Muḥammad, leave us to work on this land; we shall have half (the produce) as you like, and you will have the half. The Apostle of Allah (may peace be upon him) used to make a contribution of eighty wasaqs<sup>2429</sup> of dates and twenty wasaqs of wheat to each of his wives.<sup>2430</sup>

(3001) 'Abd Allah b. 'Umar reported that 'Umar said: The Apostle of Allah (may peace be upon him) had transaction with the Jews of Khaibar on condition that we should expel them when we wish. If anyone has property (with them), he should take it back, for I am going to expel the Jews. So he expelled them.<sup>2431</sup>

(3002) 'Abd Allah b. 'Umar said: When Khaibar was conquered, the Jews asked the Apostle of Allah (may peace be upon him) to confirm that they would do all the cultivation and have half the produce. The Apostle of Allah (may peace be upon him) said: I shall confirm you on that condition as long as we wish. So they were confirmed on that (condition). The dates from half the produce of Khaibar were divided into a number of portions. The Apostle of Allah (may peace be upon him) would take the fifth. The Apostle of Allah (may peace be upon him) used to contribute from the fifth

2427. It contained a large quantity of gold, silver and ornaments. It valued nearly ten thousand dīnārs. A woman who was married usually borrowed ornaments from this purse.

2428. He was uncle of Huyayy b. Akhtab.

2429. A wasaq amounts to sixty ṣā's.

2430. After the conquest of Khaibar, the Prophet (may peace be upon him) allowed the Jews on their request to remain there, do all the cultivation, and have half the produce.

2431. 'Umar expelled the Jews from Khaibar, as the Prophet (may peace be upon him) once said: I will certainly expel the Jews and the Christians from Arabia so as to leave only Muslims in it.

one hundred wasqs of dates and twenty wasqs of wheat to each of his wives. When 'Umar intended to expel the Jews from Khaibar he sent a message to the wives of the Prophet (may peace be upon him) and said to them : If any of you wishes that I divide the palm-trees for her by their assessment that amounts one hundred wasqs (of dates), and to her belongs their root, their land and their water, and (likewise) twenty wasqs from the produce of the cultivated land by assessment, I shall do (that). And if any of you wishes that we take out her portion from the fifth, we shall do (that).<sup>2432</sup>

(3003) Anas b. Mālik said : The Apostle of Allah (may peace be upon him) attacked Khaibar and we captured it by conquest. He then gathered the captives of war.

(3004) Sahl b. Abī Hathmah said : The Apostle of Allah (may peace be upon him) divided Khaibar into two halves : One half was reserved for his emergency and needs ; the other half was meant for the Muslims. He divided among them into eighteen portions.

(3005) Bashīr b. Yasār said that he heard a number of the Companions of the Prophet (may peace be upon him) say. He then narrated the tradition (mentioned above). He said : One half comprised the portions of the Muslims and the portion of the Apostle of Allah (may peace be upon him). He separated the other half for the Muslims for any calamity that befalls him and for emergent needs.

(3006) Bashīr b. Yasār, the client of the *Anṣār*, reported on the authority of a group of the Companions of the Prophet (may peace be upon him) : When the Apostle of Allah (may peace be upon him) conquered Khaibar, he divided it into thirty-six lots, each lot comprising one hundred portions.<sup>2433</sup> One half of it was for the Apostle of Allah (may peace be upon him) and for the Muslims ; and he separated the remaining half for the deputations which came to him, other matters and emergent needs of the people.<sup>2434</sup>

(3007) Bashīr b. Yasār said : When Allah bestowed Khaibar on His Prophet (may peace be upon him) as *faī'* (spoils), he divided it into thirty-six lots. Each lot comprised one hundred portions.<sup>2435</sup> He separated its half for his emergent needs and

2432. There was a difference of opinion among the wives of the Prophet (may peace be upon him) on this option. Some of them opted for palm-trees and land, and others opted for produce by wasqs.

2433. This means that each lot was divided among one hundred men.

2434. A part of Khaibar was captured by fighting and a part of it was captured without fighting. The part conquered by fighting was divided into thirty-six lots which were distributed among the warriors. The other part was reserved for the Prophet (may peace be upon him) and public needs (*'Awn al-Ma'būd*, III, 119-20).

2435. This means that he divided one lot among one hundred men.

whatever befalls him. Al-Waṭīh<sup>2436</sup> and al-Kutaibah<sup>2437</sup> and al-Salālim and whatever acquired with them. He separated the other half, and he divided al-Shaqq<sup>2438</sup> and Naṭā'<sup>2439</sup> and whatever acquired with them. The portion of the Apostle of Allah (may peace be upon him) lay in the property acquired with them.

(3008) Bashīr b. Yasār said: When Allah bestowed Khaibar on the Apostle of Allah (may peace be upon him) as *fai'* (spoils of war without fighting), he divided it totally into thirty-six lots. He separated a half, i.e. eighteen lots, for the Muslims. Each lot comprised one hundred shares, and the Prophet (may peace be upon him) was with them.<sup>2440</sup> He got the share like the share of one of them. The Apostle of Allah (may peace be upon him) separated eighteen lots, that is a half, for his emergent needs and whatever befell the Muslims. These were al-Waṭīh, al-Kutaibah, and al-Salālim, and their adjuncts. When all this property came in the possession of the Prophet (may peace be upon him) and of the Muslims, they did not have sufficient labourers to work on them. The Apostle of Allah (may peace be upon him) called the Jews and employed them on contract.

(3009) Muḥammī' b. Jāriyat al-Anṣārī, who was one of the readers who read the Qur'ān, said: Khaibar was divided among the people of al-Ḥudaibiyah. The Apostle of Allah (may peace be upon him) divided it into eighteen portions. The army contained one thousand and five hundred people. There were three hundred horsemen among them. He gave double share to the horsemen, and a single to the footmen.

(3010) 'Abd Allah b. Abī Bakr and some children of Muḥammad b. Maslamah said: There remained some people of Khaibar and they confined themselves to the fortresses. They asked the Apostle of Allah (may peace be upon him) to protect their lives and let them go. He did so. The people of Fadak heard this; they also adopted a similar way. (Fadak) was, therefore, exclusively reserved for the Apostle of Allah (may peace be upon him), for it was not captured by the expedition of cavalry and camelry.<sup>2441</sup>

(3011) Sa'īd b. al-Musayyab said: The Apostle of Allah (may peace be upon him) conquered a portion of Khaibar by force.

Abū Dāwūd said: This tradition was read out to al-Ḥārith b. Miskīn while I was

2436. The name of a fortress at Khaibar.

2437. The name of a place at Khaibar.

2438. The name of a fortress at Khaibar.

2439. The name of the land at Khaibar. Some are of view that it was a fortress, and others hold that it was a spring for watering the palm-trees at Khaibar.

2440. This means that the Prophet (may peace be upon him) got his share equal to that of other Muslims.

2441. Fadak was considered *fai'*, for it was not conquered by fighting. The land captured by fighting is divided among the army.

a witness. Ibn Wahb said: Mālik told me on the authority of Ibn Shihāb: Khaibar was captured by force in part, and by peace in part. Most of al-Kutaibah was captured by force and a portion by peace.<sup>2442</sup> I asked Mālik: What is al-Kutaibah? He replied: The land of Khaibar. It had forty thousand palm-trees.

(3012) Ibn Shihāb said: It has reached me that the Apostle of Allah (may peace be upon him) conquered Khaibar by force. Its inhabitants who came down (from their fortresses) for expulsion came down after fighting.<sup>2443</sup>

2442. There is a difference of opinion amongst scholars on the conquest of Khaibar whether it was captured by force or by peace. There are three points of view: (1) it was conquered by force; (2) it was conquered by peace; (3) a part of it was conquered by force and a part by peace. Ibn 'Abd al-Barr is of opinion that the correct view is that Khaibar was conquered by force. Scholars are agreed that the lands of Khaibar were divided among the army. There is no difference on its conquest and division. What is disputed is whether the conquered land should be distributed among the army or not. Abū Ḥanīfah holds that it depends on the discretion of the ruler of the Muslims. He may divide it as the Prophet (may peace be upon him) had done, or retain it as 'Umar had done. Al Shāfi'ī maintains that the conquered land should be distributed as the Prophet (may peace be upon him) had done. This is as good as the other booty. Mālik holds that the conquered land should be retained by the State for public need as 'Umar had done. It should not be divided among the army.

Those who maintain that Khaibar was captured partly by force and partly by peace were confused with the surrender of the fortresses al Waṭīḥ and Sulālim. The inhabitants of these fortresses confined themselves to these fortresses and asked the Prophet (may peace be upon him) for protection. The Prophet (may peace be upon him) accepted their request. But they surrendered their lands by fighting. Moreover, there is another reason for this confusion. Bashīr b. Yasār narrated that the Prophet (may peace be upon him) divided Khaibar into two halves: one for himself and the other for Muslims. In fact, Khaibar was divided into thirty-six lots. The portion of the Prophet (may peace be upon him) and of some people with him lay in the eighteen lots, and the portion of other Muslims lay in the remaining eighteen. Further, the fortresses surrendered by their inhabitants were taken after their confinement and fighting. Had they been taken by peace, they would have been left in the possession of their owners, according to the rules of peace.

There is another explanation. Some scholars think that the confusion arose from the tradition of Ibn 'Umar. It says: The Prophet (may peace be upon him) fought against the people of Khaibar and conquered the palm trees and forced them to confine themselves to their fortresses. They made a treaty with him. It provided that they would leave Khaibar, and gold, silver and weapons would go to the Muslims. They could take away their property on condition that they should not conceal or carry away anything. This tradition also says that their women and children were captivated, and their property was divided for their violation of the treaty with the Prophet (may peace be upon him). He intended to expel them. They said: Leave us in this land; we shall conclude a treaty of peace with you. This tradition had been narrated by Abū Dāwūd. This is how the treaty was concluded. But they again violated the treaty. The Prophet (may peace be upon him) showed kindness to them, for he did not kill them but left them as cultivators of the land on contract basis. This land was not their property. Finally, 'Umar expelled them from Khaibar. Had there been a treaty of peace with them, he would not have expelled them (*'Awn al-Ma'būd*, III, 122).

2443. After their surrender the Jews requested the Prophet (may peace be upon him) to leave them in Khaibar and let them work on land for him.

(3013) Ibn Shihāb said: The Apostle of Allah (may peace be upon him) took out his fifth from the booty of Khaibar, and divided the rest of it among those who attended the battle and among those who were away from it but attended the expedition of al-Hudaibiyah.

(3014) 'Umar said: Had I not considered the last Muslim, I would have any town I conquered divided as the Apostle of Allah (may peace be upon him) had divided Khaibar.<sup>2444</sup>

### *Chapter 1113*

#### A DESCRIPTION OF THE CONQUEST OF MECCA

(3015) Ibn 'Abbās said: Al-'Abbās b. 'Abd al-Muṭṭalib brought Abū Sufyān b. Harb to the Apostle of Allah (may peace be upon him) in the year of the conquest (of Mecca). So he embraced Islam at Marr al-Zahrān.<sup>2445</sup> Al-'Abbās said to him: Apostle of Allah, Abū Sufyān is a man who likes taking this pride, if you may do something for him. He said: Yes, he who enters the house of Abū Sufyān<sup>2446</sup> is safe, and he who closes his door is safe.

(3016) Ibn 'Abbās said: When the Prophet (may peace be upon him) alighted at Marr al-Zahrān, al-'Abbās said: I thought: I swear by Allah, if the Apostle of Allah (may peace be upon him) enter Mecca with the army by force before the Quraish come to him and seek protection from him, it is their total ruin. So I rode on the mule of the Apostle of Allah (may peace be upon him) and thought: Perhaps I may find a man coming for his need who goes to the people of Mecca and informs them of the position of the Apostle of Allah (may peace be upon him), so that they may come to him and seek protection from him. While I was going, I heard the speech of Abū Sufyān and Budail b. Warqā'. I said: O Abū Ḥanzalah.<sup>2447</sup> He recognised my voice and said: Abū al-Faḍl?<sup>2448</sup> I replied: Yes. He said: What is with you, may my parents be a sacrifice for you? I said: Here are the Apostle of Allah (may peace be upon him) and the people (with him). He asked: What is the way out? He said: He rode behind me, and his Companion returned. When the morning came, I brought him to the Apostle of Allah (may peace be upon him) and he embraced Islam. I said:

2444. 'Umar did not divide the lands of Iraq as he wanted to spend its revenue on public works for the benefit of all the Muslims. He declared these lands as State property. He thought that the future generations of the Muslims had also their share in these lands.

2445. The name of a place near Mecca.

2446. The Prophet (may peace be upon him) thus gave a distinction to Abū Sufyān for which he could take a pride.

2447. Surname of Abū Sufyān.

2448. Surname of al-'Abbās.



Apostle of Allah, Abū Sufyān is a man who likes this pride, do something for him. He said: Yes, he who enters the house of Abū Sufyān is safe; he who closes the door upon him is safe; and he who enters the mosque is safe. The people scattered in their houses and in the mosque.<sup>2449</sup>

(3017) Wahb b. Munabbih said: I asked Jābir: Did they get any booty on the day of conquest (of Mecca)? He replied: No.

(3018) Abū Hurairah said: When the Prophet (may peace be upon him) entered Mecca, he left al-Zubair b. al-'Awwām, Abū 'Ubaidah b. al-Jarrāh, and Khālid b. al-Walīd on the horses, and he said: Abū Hurairah, call the Helpers. He said: Go this way. Whoever appears before you, kill him. A man called: The Quraish will be no more after today.<sup>2450</sup> The Apostle of Allah (may peace be upon him) said: He who enters a house is safe; he who throws the weapon is safe. The chiefs of the Quraish intended (to have a resort in the Ka'bah); they entered the Ka'bah, and it was full of them. The Prophet (may peace be upon him) took rounds of the Ka'bah, and prayed behind the station.<sup>2451</sup> He then held the sides of the gate (of the Ka'bah). They (the people) came out and took the oath of allegiance (at the hands) of the Prophet (may peace be upon him) on Islam.

Abū Dāwūd said: I heard Aḥmad b. Ḥanbal (say) when he was asked by a man: Was Mecca captured by force? He said: What harms you whatever it was? He said: Then by peace? He said: No.

### Chapter 1114

#### DESCRIPTION OF THE CONQUEST OF AL-ṬĀ'IF

(3019) Wahb said: I asked Jābir about the condition of Thaqlif<sup>2452</sup> when they took the oath of allegiance. He said: They stipulated to the Prophet (may peace be upon him) that there would be no *ṣadaqah* (i.e. *zakāt*) on them nor *jihād* (striving in

2449. This shows that Mecca was captured by peace and not by force. This view is held by al-Shāfi'ī. But Mālik, Abū Ḥanīfah and Aḥmad hold that Mecca was captured by force.

2450. This means that the strength of the Quraish had been broken down. After the conquest of Mecca the Quraish could not survive as a great power against the Prophet (may peace be upon him). They all surrendered.

2451 This refers to Maqām Ibrāhīm.

2452. Banū Thaqlif was a tribe living at al-Ṭā'if. Thaqlif was the name of the great-grandfather of the tribe of Hawāzin.

The Prophet (may peace be upon him) proceeded to capture al-Ṭā'if in Shawwāl 8 A.H. when he returned from Ḥunain. The Muslims surrounded Banū Thaqlif who were confined to their fortresses. They shot the Muslims with their arrows. The blockade continued for eighteen days. He was not allowed to capture al-Ṭā'if that year. He, therefore, ordered to lift the siege and proceed. He then prayed for Thaqlif: O Allah, guide Thaqlif to Islam and bring them as Muslims.

the way of Allah). He then heard the Prophet (may peace be upon him) say: Later on they will give *ṣadaqah* (*zakāt*) and will strive in the way of Allah when they embrace Islam.<sup>2453</sup>

(3020) 'Uthmān b. Abī al-ʿĀṣ said: When the deputation of Thaqlif came to the Apostle of Allah (may peace be upon him), he made them stay in the mosque, so that it might soften their hearts. They stipulated to him that they would not be called to participate in *jihād*, to pay *zakāt* and to offer prayer. The Apostle of Allah (may peace be upon him) said: You may have the concession that you will not be called to participate in *jihād* and pay *zakāt*, but there is no good in a religion which has no bowing (i.e. prayer).<sup>2454</sup>

### Chapter 1115

#### ON THE LANDS OF THE YEMEN

(3021) 'Āmir b. Shahr said: When the Apostle of Allah (may peace be upon him) appeared as a prophet, Hamdān<sup>2455</sup> said to me: Will you go to this man and negotiate for us (with him). If you accept a thing, we shall accept it, and if you disapprove a thing, we shall disapprove it. I said: Yes. So I proceeded until I came to the Apostle of Allah (may peace be upon him). I liked his matter and my people embraced Islam. The Apostle of Allah (may peace be upon him) wrote this document for 'Umair Dhū Marrān.<sup>2456</sup> He also sent Mālik b. Murārah<sup>2457</sup> al-Rahāwl to all the (people of) Yemen. So 'Akk Dhū Khaiwān embraced Islam. 'Akk was told: Go to the Apostle of Allah (may peace be upon him), and take from him protection for you town and property.<sup>2458</sup> He, therefore, came (to him) and the Apostle of Allah (may peace be

2453. The Prophet (may peace be upon him) accepted both conditions of Banū Thaqlif, for they were neo-Muslims. *Zakāt* and *jihād* were not obligatory on each and every person. They were obligatory only on those who were eligible for them. The Prophet (may peace be upon him) made the injunctions of Islam easy for them in the beginning. He believed that they would pay *sakāt* and perform *jihād* when they became perfect in Islam.

2454. The Prophet (may peace be upon him) did not exempt them from prayer, for it was obligatory on all Muslims five times a day. As for *jihād* and *sakāt*, these were not obligatory on all Muslims. *Zakāt* is levied after the passing of one year, and *jihād* is prescribed on them who are able to perform, when there is a need for it. It is not performed all the time. There was thus justification for exemption from these two duties temporarily.

2455. The name of a tribe of the Yemen.

2456. The name of a Companion of the Prophet (may peace be upon him). He belonged to the tribe of Hamdān. He was grandfather of Mujālid b. Sa'Id.

2457. The name of a Companion who lived in Syria. The Prophet (may peace be upon him) sent him to the Yemen for teaching its people injunctions of Islam.

2458. This was suggested to him to save him and his property from the attack of Muslims.

upon him) wrote a document for him: "In the name of Allah, Most Beneficent, Most Merciful. From Muḥammad, the Apostle of Allah, to 'Akk Dhū Khaiwāh. If he is true in his land, property and slave, he has the security and the protection of Allah, and of Muḥammad, the Apostle of Allah. Khālīd b. Sa'īd b. al-'Āṣ panned it."<sup>2459</sup>

(3022) Abyaḍ b. Ḥammāl said that he spoke to the Apostle of Allah (may peace be upon him) about *ṣadaqah*<sup>2460</sup> when he came along with a deputation to him. He replied: O brother of Sabā',<sup>2461</sup> the *ṣadaqah* is inevitable. He said: We cultivated cotton, Apostle of Allah. The people of Sabā' scattered, and there remained only a few at Ma'ārib.<sup>2462</sup> He, therefore, concluded a treaty of peace with the Apostle of Allah (may peace be upon him) to give seventy suits of cloth equivalent in price of the garments of the Yemen known as *al-mu'āfir*,<sup>2463</sup> to be paid every year on behalf of those people of Sabā' who remained at Ma'ārib. They continued to pay them till the Apostle of Allah (may peace be upon him) died. The governors after the death of the Apostle of Allah (may peace be upon him) broke the treaty concluded by Abyaḍ by Ḥammāl with the Apostle of Allah (may peace be upon him) to give seventy suits of garments. Abū Bakr then revived it as the Apostle of Allah (may peace be upon him) had done till Abū Bakr died. When Abū Bakr died, it was discontinued and the *ṣadaqah* was levied.<sup>2464</sup>

## Chapter 1116

### EXPULSION OF THE JEWS FROM ARABIA

(3023) Ibn 'Abbās said that the Prophet (may peace be upon him) gave three instructions saying: Expel the polytheists<sup>2465</sup> from Arabia; reward deputations as I did.<sup>2466</sup> Ibn 'Abbās said: He either did not mention the third or I have been caused

2459: It may be noted that tithe ('*uṣṣhr*') is levied on the lands of the Yemen and not *ḥharāj* (tribute). The reason is that the people of the Yemen embraced Islam themselves and the lands remained in their possession.

2460. He asked the Prophet (may peace be upon him) that tithe ('*uṣṣhr*') should not be levied on their lands.

2461. The name of a city in the Yemen.

2462. The name of a place in the Yemen.

2463. Mu'āfir is the name of a tribe which was a section of Hamdān, the Yemen tribal group. This tribe was known for manufacturing the garments known as *mu'āffri* after them.

2464. The practice of giving seventy suits of *ma'āffri* garment was discontinued and tithe was levied on them like others.

2465. This shows that the Prophet (may peace be upon him) ordered to expel all the polytheists, whether they were Jews, Christians or Magians.

2466. As deputations are ambassadors of other countries, they deserve due respect and reward. Hence the Prophet (may peace be upon him) gave instructions to reward them.

to forget it. Al-Ḥumaidī said on the authority of Sufyān that Sulaimān said : I do not know whether Sa'īd mentioned the third and I forgot it or he himself did not mention it.<sup>2467</sup>

(3024) Jābir b. 'Abd Allah said that he was told by 'Umar b. al-Khaṭṭāb that he had heard the Apostle of Allah (may peace be upon him) say : I will certainly expel the Jews and the Christians from Arabia, and I shall leave only Muslims in it.

(3025) The tradition mentioned above has also been transmitted by 'Umar through a different chain of narrators. He said : The Apostle of Allah (may peace be upon him) said to the same effect. The former version is more perfect.

(3026) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : Two *qiblahs* in one land are not right.<sup>2468</sup>

(3027) Sa'īd b. 'Abd al-'Azīz said : Arabia lies between *al-Wādī* to the extremes of the Yemen extending to the frontiers of al-'Irāq and the sea.<sup>2469</sup>

Abū Dāwūd said : This tradition was read out to al-Ḥārith b. Miskīn while I was a witness : Ashhab b. 'Abd al-'Azīz reported it to you on the authority of Mālik who said : 'Umar expelled the people of Najrān,<sup>2470</sup> but he did not expel (them) from Taimā'<sup>2471</sup> for it did not fall within the territory of Arabia. As for *al-Wādī*, I think the Jews were not expelled from there. They did not think it a part of the land of Arabia.

(3028) Mālik said : 'Umar expelled the Jews of Najrān and Fadak.<sup>2472</sup>

### Chapter 1117

#### DISTRIBUTION OF THE LANDS OF IRAQ CONQUERED BY 'UMAR AND THE LANDS CONQUERED BY FORCE

(3029) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Iraq will prevent its measure (*qaffiz*)<sup>2473</sup> and dirham ; Syria will prevent its

2467. According to this version, the man who did not mention the third is Ibn 'Abbās. According to the previous version, the man who did not mention is the Prophet (may peace be upon him).

2468. This means that Muslims should not stay in the land of non-Muslims. It may also mean that non-Muslims should not be allowed to exhibit their rituals in Muslim territory. This tradition also refers to the expulsion of non-Muslims from Arabia.

2469. This shows the dimensions of Arabia from where the polytheists should be expelled. In this tradition *al-Wādī* refers to Wādī al Qurā.

2470. The name of a place between Syria and Ḥijāz.

2471. An important town on the coast of the sea. This was the land of Ṭayy.

2472. The name of a place near Ḥijāz. There is a distance of two days' journey between Medina and Fadak.

2473. *Qaffiz* is a unit of measurement of Iraq. It is equivalent to eight makkuks which amounts to one and a half sā'.

measure (mudī)<sup>2474</sup> and dīnār; Egypt will prevent its measure (ardabb)<sup>2475</sup> and dīnār.<sup>2476</sup> Then you will return to the position from where you started.<sup>2477</sup> Zubair said this three times. The flesh and blood of Abū Hurairah witnessed to it.

(3030) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: Whatever town<sup>2478</sup> you come to and stay in, your portion is in it; but whatever town<sup>2479</sup> disobeys Allah and His Apostle, a fifth of it goes to Allah and His Apostle, and what remains is yours.<sup>2480</sup>

### Chapter 1118

#### ON LEVYING JIZYAH (POLL-TAX)

(3031) Anas b. Mālīk and 'Uthmān b. Abī Sulaimān said: The Prophet (may peace be upon him) sent Khālīd b. al-Wāld to Ukaidir of Dūmah.<sup>2481</sup> He was seized and they brought him to him (i.e. the Prophet). He spared his life and made peace with him on condition that he should pay *jizyah* (poll-tax).<sup>2482</sup>

2474. Mudī is a unit of measurement of Syria amounting to fourteen or fifteen makkūs.

2475. Ardabb is a unit of measurement in Egypt. It is equivalent to twenty-four šā's.

2476. Various explanations have been offered by commentators for the prevention of measurement and money by Iraq, Syria and Egypt. This is indeed a prediction made by the Prophet (may peace be upon him) for their conquest by Muslims. It means that the people of these countries will embrace Islam and *jizyah* will not be levied on them. The other explanation is that the Persians and Romans will dominate these countries in the later days and they will prevent their measurement and money from Muslims ('*Awn al-Ma'būd*, III, 130).

2477. This refers to the Last Days of the world when Muslims will be less in number and non-Muslims will dominate. Disbelief will have domination over Islam when the Last Hour comes.

The lands of these countries were not distributed among the army. They were left in the hands of their owners. According to al-Shāfi'i, the lands of the countries conquered by force should be distributed among the Muslims as done by the Prophet (may peace be upon him) in the case of Khaibar. Mālīk holds that lands conquered by force should be State property. They shall be retained in the hands of their owners. The revenue will be spent on public works. Abū Ḥanīfah maintains that it depends on the discretion of the ruler to distribute or to retain the lands conquered by force.

2478. This refers to the town conquered by peace and its people are expelled. The Muslims will have their share in the property of such a town as *fai*'.

2479. This means a town conquered by force. A fifth will be taken out of the booty of this town.

2480. The booty is divided among the army after taking out a fifth in case a town is captured by force. But a fifth is not taken out if it is conquered by peace.

2481. Dūmah was a fortress near Tabūk. Ukaidir was a Christian Arab. He belonged to Ghassān. The incident took place in 9 A.H. during the expedition to Tabūk.

2482. This shows that *jizyah* can be levied on an Arab like a non-Arab. Abū Yūsuf holds that *jizyah* is not levied on Arabs. Mālīk, al-Auzā'i and al-Shāfi'i maintain that *jizyah* can be levied on both Arabs and non-Arabs ('*Awn al-Ma'būd*, III, 132).



(3032) Mu'adh said : When the Prophet (may peace be upon him) sent him to the Yemen, he ordered to take from everyone who had reached puberty one *dīnār* or its equivalent in *Mu'afirī* garments of Yemen origin.

(3033) A similar tradition from the Prophet (may peace be upon him) has also been transmitted by Mu'adh through a different chain of narrators.

(3034) 'All said : If I survive for the Christians of Banū Taghlib I shall kill fighters and captivate children, for I had written a document between them and the Prophet (may peace be upon him) to the effect that they would not make their children Christian.<sup>2483</sup> Abū Dāwūd said : This is a rejected (*munkar*) tradition, and it has reached me from Aḥmad (b. Ḥanbal) that he used to reject this tradition seriously.

Abū 'All said : Abū Dāwūd did not present this (tradition) in his second reading.

(3035) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) concluded peace with the people of Najrān on condition that they would pay to Muslims two thousand suits of garments, half in Ṣafar, and the rest in Rajab, and they would lend (Muslims) thirty coats of mail, thirty horses, thirty camels, and thirty weapons of each type used in battle. Muslims will stand surety for them until they return them in case there is any plot or treachery in the Yemen.<sup>2484</sup> No church of theirs will be demolished and no clergyman of theirs will be turned out. There will be no interruption in their religion until they bring something new or take usury. Ismā'īl said : They took usury.<sup>2485</sup>

Abū Dāwūd said : If they violate any provision of the treaty, they will be deemed as bringing something new.

## Chapter 1119

### LEVYING *JIZYAH* ON MAGIANS

(3036) Ibn 'Abbās said : When the prophet of the Persians died, Iblīs (satan)

2483. Abū 'Ubaid has mentioned in *Kitāb al-Amwāl* that 'Umar once intended to levy *jizyah* on the Christians of Banū Taghlib. It was suggested to him that they were Arabs and they took to pay *jizyah* an insult. They had no property except the cattle. They lived on agriculture. 'Umar, therefore, concluded peace with them on condition that they would pay *ṣadaqah* at double the rate the Muslims paid it, and that they would not make their children Christians. They accepted this condition.

2484. The Prophet (may peace be upon him) concluded peace with the people of the Yemen. In case of treachery or violation of the treaty on their part, he sought help from the people of Najrān by making an alliance with them.

2485. The two thousand suits of garments to be paid by the people of Najrān to the Muslims annually were a kind of *jizyah* levied in special circumstances on the people of splendour. This shows that the ruler of Muslims may levy *jizyah* in any form he likes.

led them to Mazdaism.<sup>2486</sup>

(3037) 'Amr b. Aws and Abū al-Sha'thā' reported that Bujālah said : I was secretary of Jaz' b. Mu'āwiyah, the uncle of Aḥnaf b. Qais. A letter came to us from 'Umar one year before his death, saying : Kill every magician, separate the relatives of prohibited degrees from the Magians,<sup>2487</sup> and forbid them to murmur<sup>2488</sup> (before eating). So we killed three magicians in one day, and separated from a Magian husband his wife of a prohibited degree according to the Book of Allah. He prepared abundant food and called them, and placed the sword on his thigh.<sup>2489</sup> They ate (food) but did not murmur. They threw (on the ground) one or two mule-loads of silver.<sup>2490</sup> 'Umar did not take *jizyah* from Magians<sup>2491</sup> until 'Abd al-Raḥmān b. 'Awf witnessed that the Apostle of Allah (may peace be upon him) had taken *jizyah* from the Magians of Hajar.<sup>2492</sup>

(3038) Ibn 'Abbās said : A man belonging to UsbadhiyIn<sup>2493</sup> of the people of Baḥrain, who were the Magians of Hajar, came to the Apostle of Allah (may peace be upon him) and remained with him (for some time), and then came out. I asked him : What have Allah and His Apostle decided for you ? He replied : Evil. I said : Silent. He said : Islam or killing. 'Abd al-Raḥmān b. 'Awf said : He accepted *jizyah* from them. Ibn 'Abbās said : The people followed the statement of 'Abd al-Raḥmān b. 'Awf, and they left that which I heard from the Usbadhi.<sup>2494</sup>

2486. Magians are not counted as the people of the Book. Only Jews and Christians are considered people of the Book. But according to a tradition of the Prophet (may peace be upon him), they are treated on a par with the people of the Book in respect of *jizyah*. *Jizyah* is levied on them like Jews and Christians.

2487. Magians used to marry the relatives of prohibited degrees such as daughter, mother and sister. Therefore 'Umar ordered to separate such couples.

2488. *Zamzamaḥ*. The Magians would utter some words after eating in a murmuring sound not intelligible to others. This was prohibited by 'Umar.

2489. By placing the sword on his thigh he meant to kill them if they produced a murmuring sound after eating.

2490. These were toothpicks of silver which they had brought with them to eat food according to their custom.

2491. 'Umar did not take *jizyah* from the Magians as he was unaware of the tradition of the Prophet (may peace be upon him).

2492. The name of a place near Baḥrain.

2493. This word has been pronounced as *usbadhi* and *asbadhi*. It has been explained in various ways. First, it refers to the kings of Ammān in Baḥrain. Literally, it means the worshippers of the horse. The word *asp* in Persian means horse. Secondly, it means a sect of Magians. Thirdly, it stands for the people who lived in the town of Asbadh in Baḥrain. Fourthly, Asbadh is the name of a man in Persian. Al-Mundhir b. Sāwā al-Asbadhī was a Companion of the Prophet (may peace be upon him).

2494. The statement of the Usbadhi was not reliable, for he was a non-Muslim. Hence the people followed the statement of 'Abd al-Raḥmān b. 'Awf

## Chapter 1120

## HARSHNESS IN TAKING JIZYAH

(3039) 'Urwah b. al-Zubair said : Hishām b. Ḥakīm b. Ḥizām found a man who was the governor of Ḥimṣ<sup>2495</sup> making some Copts stand in the sun for the payment of *jizyah*. He said : What is this ? I heard the Apostle of Allah (may peace be upon him) as saying : Allah Most High will punish those who punish the people in this world.<sup>2496</sup>

## Chapter 1121

ON LEVYING TITHES ON NON-MUSLIM PROTECTED PEOPLE  
WHO BRING MERCHANDISE TO THE MUSLIM COUNTRY

(3040) Ḥarb b. 'Ubaid Allah told on the authority of his grandfather, his mother's father, that he had it on the authority of his father that the Apostle of Allah (may peace be upon him) said : Tithes are to be levied on Jews and Christians, but not on Muslims.<sup>2497</sup>

(3041) The tradition mentioned above has also been transmitted by Ḥarb b. 'Ubaid Allah from the Prophet (may peace be upon him) to the same effect through a different chain of narrators. This version has the word *kharāj* (land tax) instead of *'ushr* (tithes).<sup>2498</sup>

(3042) A man reported from Bakr b. Wā'il on the authority of his maternal uncle as saying : I said : Apostle of Allah, may I levy tithe on my people ? He replied : Tithes are to be levied on Jews and Christians.<sup>2499</sup>

(3043) Ḥarb b. 'Ubaid Allah b. 'Umair al-Thaqafī told on the authority of his grandfather, a man of Banū Taghlib : I came to the Prophet (may peace be upon him).

2495. The name of a place in Syria.

2496. This shows that one should not be harsh in taking *jizyah* or other taxes from the people. One may be punished in the next world if one punishes the people in this world without fault.

2497. This refers to the levy of tithe on merchandise and not to the tithe of *ṣadaqāt*. Tithe is to be levied on Jews and Christians if this provision has been made in the agreement with them. If it is not mentioned, no tithe will be levied on them except *jizyah*. Tithe on agricultural produce will not be taken from them. This view is held by al-Shāfi'ī. Abū Ḥanīfah maintains that if the Jews and Christians levy tithe on Muslims when they visit their country with their merchandise, tithe will be levied on them in the Muslim country on their visit. If they do not take it from Muslims, no tithe will be taken from them.

2498. *Kharāj* is levied on Jews and Christians and not on Muslims.

2499. In the chain of this tradition the man belonging to Banū Wā'il is obscure. His maternal uncle is also obscure. But he is a Companion of the Prophet (may peace be upon him).

Tithes are to be levied on the merchandise of Jews and Christians. Muslims pay tithe on land and not on merchandise.

embraced Islam, and he taught me Islam. He also taught me how I should take *ṣadaqah* from my people who had become Muslim. I then returned to him and said : Apostle of Allah, I remembered whatever you taught me except the *ṣadaqah*. Should I levy tithe on them ? He replied : No, tithes are to be levied on Christians and Jews.

(3044) Al-'Irbad b. Sāriyat al-Sulamī said : We alighted with the Prophet (may peace be upon him) at Khaibar, and he had his Companions with him. The chief of Khaibar was a defiant and abominable man. He came to the Prophet (may peace be upon him) and said : Is it proper for you, Muḥammad, that you slaughter our donkeys, eat our fruits, and beat our women ? The Prophet (may peace be upon him) became angry and said : Ibn 'Awf, ride your horse, and call loudly : Beware, Paradise is lawful only for a believer, and that they (the people) should gather for prayer. They gathered and the Prophet (may peace be upon him) led them in prayer, got up and said : Does any of you, while reclining on his couch, imagine that Allah has prohibited only what is to be found in this Qur'ān ? By Allah, I have preached, commanded and prohibited various matters as numerous as what is found in the Qur'ān, or more numerous.<sup>2500</sup> Allah has not permitted you to enter the houses of the people of the Book without permission, or beat their women, or eat their fruits when they give you what is imposed on them.<sup>2501</sup>

(3045) A man of Juhainah reported the Apostle of Allah (may peace be upon him) as saying : Probably you will fight with a people, you will dominate them, and they will save themselves and their children by their property. The version of Sa'īd has You will then conclude peace with them. The agreed version goes : Then do not take anything from them more than that, for it is not proper for you.<sup>2502</sup>

(3046) Ṣafwān reported from a number of Companions of the Apostle of Allah (may peace be upon him) on the authority of their fathers who were relatives of each other. The Apostle of Allah (may peace be upon him) said : Beware, if anyone wrongs a contracting man, or diminishes his right, or forces him to work beyond his capacity, or takes from him anything without his consent, I shall plead for him on the Day of Judgment.<sup>2503</sup>

2500. The *Sunnah* (i.e. the tradition of the Prophet) is also authoritative like the Qur'ān. Both the Qur'ān and *Sunnah* constitute the source of the Islamic law. The *Sunnah* is commentary and explanation of the Qur'ān.

2501. The Prophet (may peace be upon him) gave instructions to Muslims not to enter the houses of Jews and Christians, and not to take their property without their permission. Their women should be respected. Muslims should not take anything more than what is due from them.

2502. This shows that Muslims should not take the property of non-Muslims more than that which is agreed in the covenant. They should strictly abide by the conditions laid down in the agreement.

2503. This refers to the protected people (*ahl al-dhimma*) who conclude peace with Muslims. Muslims are required to stick to the provisions of the agreement and not to harm them in any way.

### Chapter 1122

#### IF A NON-MUSLIM EMBRACES ISLAM DURING THE YEAR, WILL *JIZYAH* BE LEVIED ON HIM ?

(3047) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : *Jizyah* is not to be levied on a Muslim.<sup>2304</sup>

(3048) Muḥammad b. Kathīr said : Sufyān was asked to explain the tradition mentioned above. He said : When he embraces Islam, no *jizyah* will be levied on him

### Chapter 1123

#### SHOULD A MUSLIM RULER ACCEPT THE PRESENTS OF NON-MUSLIMS OR NOT ?

(3049) 'Abd Allah al-Hawzanī said : I met Bilāl, the *mu'adhdhin* (crier) of the Apostle of Allah (may peace be upon him) at Aleppo, and said : Bilāl, tell me how was the position of the expenses of the Apostle of Allah (may peace be upon him). He said : He had nothing. It was I who managed it on his behalf since the day Allah made him Prophet until the Apostle of Allah (may peace be upon him) died. When a Muslim man came to him and he found him naked, he ordered me (to clothe him). I would go, borrow (some money), and purchase a cloak for him. I would then clothe him and feed him. A man from the polytheists met me and said : I am well off, Bilāl. Do not borrow money from anyone except me. So I did accordingly. One day when I performed ablution and got up to call to prayer, the same polytheist came along with a body of merchants. When he saw me, he said : O Abyssinian. I said : I am at your service. He met me with unpleasant looks and said harsh words to me. He asked me : Do you know how many days remain in the completion of this month ? I replied : The time is near. He said : Only four days remain in the completion of this month. I shall then take for that which is due on you (i.e. loan), and then shall return you to tend the sheep as you were before. I began to think in my mind what the people think in their minds (on such occasions). When I offered the night prayer, the Apostle of Allah (may peace be upon him) returned to his family. I sought permission from him and he gave me permission. I said : Apostle of Allah, may my parents be sacrificed on you, the polytheist from whom I used to borrow money said to me such-and-such. Neither you nor I have anything to pay him for me, and he will disgrace me. So give me permission to run away to some of those tribes who have recently embraced Islam

2304. This shows that when a non-Muslim embraces Islam, he will be exempted from *jizyah*.



until Allah gives His Apostle (may peace be upon him) something by which he pays off (the debt) for me. So I came out and reached my house. I placed my sword, water-skin (or sheath), shoes and shield near my head. When dawn broke, I intended to proceed. All of a sudden I saw a man running towards me and calling : Bilāl, respond to the Apostle of Allah (may peace be upon him). So I went till I reached him. I found four mounts kneeling on the ground with loads on them. I sought permission. The Apostle of Allah (may peace be upon him) said to me : Be glad, Allah has made arrangement for the payment (of your debt). He then asked : Have you not seen the four mounts kneeling on the ground ? I replied : Yes. He said : You may have these mounts and what they have on them. There are clothes and food on them presented to me by the ruler of Fadak. Take possession of them and pay off your debt. I did so. He then mentioned the rest of the tradition. I then went to the mosque and found that the Apostle of Allah (may peace be upon him) was sitting there. I saluted him. He asked : What benefited you which you had with you (i.e. property) ? I replied : Allah Most High paid off everything which was due on the Apostle of Allah (may peace be upon him). Nothing remains now. He asked : Did anything remain (from that property) ? I said : Yes. He said : Look, if you can give me comfort from it, for I shall not enter upon any member of my family until you give me comfort from it.<sup>2505</sup> When the Apostle of Allah (may peace be upon him) offered the night prayer, he called me and said : What is the position of that which you had with you (i.e. property) ?<sup>2506</sup> I said : It is with me, no one came to me. The Apostle of Allah (may peace be upon him) passed the night in the mosque. He then narrated the rest of the tradition. Next day when he offered the night prayer, he called me and asked : What is the position of that which you had (i.e. the rest of the property) ? I replied : Allah has given you comfort from it, Apostle of Allah. He said : Allah is Most Great, and praised Allah, fearing lest he should die while it is with him.<sup>2507</sup> I then followed him until he came to his wives and saluted each one of them and finally he came to his place where he had to pass the night. This is all that for which you asked me.<sup>2508</sup>

(3050) The tradition mentioned above has also been transmitted by Mu'āwiyah through a different chain of narrators to the same effect as narrated by Abū Taubah. This version has : I have nothing to pay from me. The Apostle of Allah (may peace

2505. By this he meant that all the property should be spent. This will give him comfort.

2506. The Prophet (may peace be upon him) asked about the remaining property, for he wanted that all the property should be distributed among Muslims.

2507. The Prophet (may peace be upon him) did not want to have any property with him. He praised Allah for the distribution of all the property with him among Muslims.

2508. Abū Dāwūd has narrated this tradition to show that a Muslim can accept the presents of a non-Muslim as Bilāl accepted the offer of loan of a non-Muslim with the permission of the Prophet (may peace be upon him).

be upon him) thereupon kept silence and this displeased me.

(3051) 'Iyād b. Ḥimār said : I presented a she-camel to the Prophet (may peace be upon him). He asked : Have you embraced Islam ? I replied : No. The Prophet (may peace be upon him) said : I have been prohibited to accept the present of polytheists.<sup>2509</sup>

### Chapter 1124

#### BESTOWING LANDS AS FIEF

(3052) 'Alqamah b. Wā'il reported on the authority of his father Wā'il that the Prophet (may peace be upon him) bestowed land in Ḥaḍramawt<sup>2510</sup> as fief.<sup>2511</sup>

(3053) The tradition mentioned above has also been transmitted by 'Alqamah b. Wā'il through a different chain of narrators.

(3054) 'Amr b. Ḥuraith said : The Apostle of Allah (may peace be upon him) demarcated a house with a bow at Medina for me. He said : I shall give you more. I shall give you more.<sup>2512</sup>

(3055) Rabī'ah b. Abī 'Abd al-Raḥmān reported on the authority of more than one person saying : The Apostle of Allah (may peace be upon him) assigned as a fief to Bilāl b. al-Ḥārith al-Muzanī the mines of al-Qaballiyah<sup>2513</sup> which is in the neighbourhood of al-Fur',<sup>2514</sup> and only *zakāt* is levied on those mines up to the present day.<sup>2515</sup>

(3056) Kathīr b. 'Abd Allah b. 'Amr b. 'Awf al-Muzanī reported from his father on the authority of his grandfather that the Prophet (may peace be upon him) assigned

2509. This tradition shows that it is not permissible to accept the presents of the polytheists. This is a disputed question. Some scholars hold that only the presents of the people of the Book should be accepted and not of polytheists. Others maintain that the presents of all non-Muslims can be accepted.

2510. The name of a city in the Yemen.

2511. This shows that a Muslim ruler is allowed to bestow land on someone as fief.

2512. The Prophet (may peace be upon him) demarcated the land to fix the dimensions of the house. He gave 'Amr b. Ḥuraith this house as a fief and said to him that he would give him more. Fief is given from the land which is not owned by anyone. This is meant to cultivate or rehabilitate.

2513. The name of a place in the neighbourhood of the sea-coast at a distance of five days' journey from Medina.

2514. The name of a place between Mecca and Medina.

2515. This shows that *zakāt* is levied on mines and not fifth. Mālik holds that if the contents of mines amount to twenty dīnars or two hundred dirhams, *zakāt* will be levied on them, otherwise not. Abū Ḥanīfah, al-Thawrī and others maintain that mines are like buried treasures of the earth. Therefore, only a fifth will be levied on it whatever the quantity of the contents may be. But it may be noted that this tradition is *mursal* in *Muwaffā'* of Mālik. This has been transmitted with perfect chain by al-Bazzār and Abū Dāwūd.

as a fief to Bilāl b. al-Ḥārith al-Muzanī the mines of al-Qaballīyyah both which lay on the upper side and which lay on the lower side, and (the land) which was suitable for cultivation at Quds.<sup>2516</sup> He did not give him (the land which involved) the right of a Muslim. The Prophet (may peace be upon him) wrote a document for him. It goes : "In the name of Allah, the Compassionate, the Merciful. This is what the Apostle of Allah (may peace be upon him) assigned to Bilāl b. Ḥārith al-Muzanī. He gave him the mines of al-Qaballīyyah, both which lay on the upper side and which lay on the lower side, and (the land) which is suitable for cultivation at Quds. He did not give him the right of any Muslim."<sup>2517</sup>

Abū Uwais said : A similar tradition has been narrated to me by Thawr b. Zaid, client of Banū al-Dail b. Bakr b. Kinānah from 'Ikrimah on the authority of Ibn 'Abbās.

(3057) Kathīr b. 'Abd Allah reported from his father on the authority of his grandfather that the Prophet (may peace be upon him) assigned as a fief to Bilāl b. Ḥārith al-Muzanī the mines of al-Qaballīyyah, both which lay on the upper side and which lay on the lower side. The narrator Ibn al-Naḍr added : "also Jars and Dhāt al-Nuṣub."<sup>2518</sup> The agreed version goes : "and (the land) which is suitable for cultivation at Quds". He did not assign to Bilāl b. al-Ḥārith the right of any Muslim. The Prophet (may peace be upon him) wrote a document to him : "This is what the Apostle of Allah (may peace be upon him) assigned to Bilāl b. al-Ḥārith al-Muzanī. He gave him the mines of al-Qaballīyyah both which lay on the upper and lower side, and that which is fit for cultivation at Quds. He did not give him the right of any Muslim."

The narrator Abū Uwais said : A similar tradition has been transmitted to me by Thawr b. Zaid from 'Ikrimah on the authority of Ibn 'Abbās from the Prophet (may peace be upon him). Ibn al-Naḍr added : Ubayy b. Ka'b penned it.

(3058) Abyaḍ b. Ḥammāl said that he went to the Apostle of Allah (may peace be upon him) and asked him for assigning him (the mines of) salt as a fief. The narrator Ibn al-Mutwakkil said : which was in Ma'ārib.<sup>2519</sup> So he assigned it to him as a fief. When he returned, a man in the meeting asked : Do you know what you have assigned him as a fief ? You have assigned him the perennial spring water.<sup>2520</sup> So he

2516. The name of a great mountain at Najd.

2517. This shows that fief should not be given by a Muslim ruler from the land owned by a Muslim. It should be given from the land which is free of liabilities.

2518. Jars and Dhāt al-Nuṣub were kinds of land. The correct meaning of these words could not be known.

2519. The name of a place in the Yemen.

2520. The mine of salt is a source of perpetual benefit for the people. It is like a brook which runs all the time.

took it back from him.<sup>2521</sup> He asked him about protecting land which had *arāk*<sup>2522</sup> trees growing in it. He replied : He could have such as was beyond the region where the hoofs (of camels) went.

The narrator Ibn al-Mutwakkil said : "that is the camel hoofs."<sup>2523</sup>

(3059) Muḥammad b. al-Ḥasan al-Mukhzūmī said : The sentence "that which is not reached by the camel hoofs" means that the camels eat (the *arāk* trees) within the reach of their heads. So the land (where the *arāk* trees are growing) may be protected beyond such a region.

(3060) Abyaḍ b. Ḥammāl said that he asked the Apostle of Allah (may peace be upon him) for giving him some land which had *arāk* trees growing in it. The Apostle of Allah (may peace be upon him) said : There is no (permission for) protecting a land which has *arāk* trees growing in it. He said : These *arāk* trees are within the boundaries of my field. The Prophet (may peace be upon him) said : There is no (permission for) protecting a land which has *arāk* trees growing in it.<sup>2524</sup>

The narrator Faraj said : By the phrase "within the boundaries of my field" he meant the land which had crop growing in it and was surrounded on four sides:

(3061) 'Uthmān b. Abl Ḥāzim said from his father on the authority of his grandfather that the Apostle of Allah (may peace be upon him) raided Thaqīf.<sup>2525</sup> When Ṣakhr heard this, he proceeded on his horse along with some horsemen to reinforce the Prophet (may peace be upon him). He found that the Prophet of Allah (may peace be upon him) had returned and he did not conquer (Ṭā'if). On that day Ṣakhr made a covenant with Allah and had His protection that he would not depart from that fortress until they (the inhabitants) surrendered themselves to the command of the Apostle of Allah (may peace be upon him). He did not depart from them until they surrendered themselves to the command of the Apostle of Allah (may peace be upon him). Ṣakhr then wrote to him : To proceed : Thaqīf have surrendered themselves to your command, Apostle of Allah, and I am proceeding to them. They have horses

2521. In the beginning the Prophet (may peace be upon him) did not know the benefits of the mine for the people. He thought that the salt might be prepared by labour and hard work as usual. But in this mine the salt was prepared without much labour. Besides, the mine was a source of perpetual benefit for the people. Hence he withdrew the fief.

2522. Thorny trees on which camels feed.

2523. The Companion wanted to have some land reserved for him. The Prophet (may peace be upon him) allowed him to protect such a land where *arāk* trees were growing in a remote place where the people could not reach.

2524. The Companion Abyaḍ b. Ḥammāl wanted to prevent people from using *arāk* trees which he had in his fields. The Prophet (may peace be upon him) forbade him to do so as *arāk* trees were commonly used by the people for making tooth-sticks and for providing fodder for their camels. But it may be noted that he did not own that field.

2525. The name of a tribe living at Ṭā'if.

with them. The Apostle of Allah (may peace be upon him) then ordered to offer prayer in congregation. He then prayed for Aḥmas<sup>2526</sup> ten times : O Allah, send blessings to the horses and the men of Aḥmas.<sup>2527</sup> The people came and Mughīrah b. Shu'bah talked to him : Prophet of Allah, Ṣakhr took my paternal aunt while she embraced Islam like other Muslims. He called him and said : Ṣakhr, when the people embrace Islam, they have security of their blood and property. Give Mughīrah his paternal aunt. So he returned him his aunt and asked the Prophet of Allah (may peace be upon him) : What about Banū Sulaim who have run away for (fear of) Islam and left that water ? He said : Prophet of Allah, allow me and my people to settle there. He said : Yes. So he allowed him to settle there. Banū Sulaim then embraced Islam, and they came to Ṣakhr. They asked him for returning them their water. But he refused. So they came to the Prophet (may peace be upon him) and said : Prophet of Allah, we embraced Islam and came to Ṣakhr so that he might return us our water. But he has refused. He then came to him and (the Prophet) said : When people embrace Islam, they secure their properties and blood. Return the people their water. He said : Yes, Prophet of Allah. I saw that the face of the Apostle of Allah (may peace be upon him) was changing red at that moment, being ashamed of taking back from him the slave-girl and water.<sup>2528</sup>

(3062) Saburah b. 'Abd al-'Azīz b. 'Abd al-Rabī' said from his father on the authority of his grandfather that the Prophet (may peace be upon him) alighted at a place where a mosque has been built<sup>2529</sup> under a large tree. He tarried there for three days, and then proceeded to Tabūk.<sup>2530</sup> Juhainah met him on a wide plain. He asked them : who are the people of Dhū al-Marwah ? They replied : Banu Rifā'ah of Juhainah. He said : I have given this (land) to Banū Rifā'ah as a fief. Therefore, they divided it. Some of them sold (their share) and others retained and worked on it. I then asked his father 'Abd al-'Azīz about this tradition. He narrated a part of it to me and did not narrate it in full.

(3063) Asmā', daughter of Abū Bakr, said : The Apostle of Allah (may peace be upon him) assigned to al-Zubair palm-trees as a fief.

(3064) 'Abd Allah b. Ḥassān al-'Anbarī said : My grandmothers Ṣaffiyyah and Duḥaibah narrated to me. They were daughters of 'Ulaibah and were nourished by Qailah daughter of Makhramah. She was grandmother of their father. She reported

2526. The name of a tribe to whom Ṣakhr belonged.

2527. Or it refers to the horsemen and footmen of the tribe of Aḥmas.

2528. Ṣakhr did a great service to Islam. Banū Thaqīf surrendered themselves to the Prophet (may peace be upon him) through his good offices. Therefore, the Prophet (may peace be upon him) wanted to reward him. But he was ashamed when he took back the slave-girl and water for him.

2529. This refers to the place where the tribe of Juhainah was settled.

2530. The name of a place.



to them saying : We came upon the Apostle of Allah (may peace be upon him). My companion Huraith b. Ḥassān came to him as a delegate from Bakr b. Wā'il. He took the oath of allegiance of Islam from himself and from his people. He then said : Apostle of Allah, write a document to us for giving us the land lying between us and Banū Tamīm at al-Dahnā'<sup>2531</sup> to the effect that no one of them will pass it to us except a traveller or a passers-by. He said : Write al-Dahnā' for them, boy. When I saw that he passed orders to give it to him, I became anxious, for it was my native land and my home. I said : Apostle of Allah, he did not ask you for a true border when he asked you. This land of Dahnā' is a place where the camels have their abode, and is a pasture for the sheep. The women of Banū Tamīm and their children are beyond that. He said : Stop, boy ; the poor woman spoke the truth, A Muslim is a brother of a Muslim. Each one of them may benefit from water and trees, and they should cooperate with each other against Satan.<sup>2532</sup>

(3065) Asmar b. Muḍarris said : I came to the Prophet (may peace be upon him), and took the oath of allegiance to him. He said : If anyone reaches a water which has not been approached before by any Muslim, it belongs to him. The people, therefore, went out running and marking (on the land).<sup>2533</sup>

(3066) Ibn 'Umar said : The Prophet (may peace be upon him) gave al-Zubair the land as a fief up to the reach of his horse when he runs. He, therefore, made his horse run until it stopped. He then threw his flog. Thereupon he said : Give him (the land) up to the point where his flog has reached.

### Chapter 1125

#### BRINGING BARREN LANDS UNDER CULTIVATION

(3067) Sa'īd b. Zaid reported the Prophet (may peace be upon him) as saying : If anyone brings barren land into cultivation, it belongs to him,<sup>2534</sup> and the unjust

2531. The name of a place.

2532. The Prophet (may peace be upon him) withdrew the fief from Huraith b. Ḥassān as the land given to him involved public benefit. Such land as used by the people in general cannot be assigned to anyone as a fief.

2533. The Prophet (may peace be upon him) gave as fief the land which was not possessed by anyone. The people ran and put marks on the land to show their reach.

2534. *Mawḍi'* is a barren land which is not owned by anyone. To bring it into cultivation may have various forms, such as cultivation, growing trees, building some structure, or watering it. If anyone makes it beneficial, it belongs to him. This may or may not be with the permission of the Muslim ruler. This is the majority view. Abū Ḥanīfah holds that it does not belong to him until the Muslim ruler approves. But Abū Yūsuf and Muḥammad oppose him. They agree with the view held by the majority of scholars.

vein has no right.<sup>2535</sup>

(3068) 'Urwah reported the Apostle of Allah (may peace be upon him) as saying: If anyone brings barren land into cultivation, it belongs to him. He then transmitted a similar tradition mentioned above.

He ('Urwah) said: One who transmitted this tradition to me said that two persons brought their dispute to the Apostle of Allah (may peace be upon him). One of them grew palm-trees in the land of the other. He decided to return the land to its owner of the palm-trees to remove his palm-trees from there. He said: I saw when their roots were being struck with axes. The trees were fully grown up, but they were removed from there.<sup>2536</sup>

(3069) The tradition mentioned above has also been transmitted by Ibn Ishāq through a different chain of narrators and to the same effect. Instead of the phrase "one who transmitted this tradition to me" this version has: "A man from among the Companions of the Prophet (may peace be upon him), and probably he was Abū Sa'īd al-Khudrī. I saw the man striking at the roots of the palm-trees."

(3070) 'Urwah said: I testify that the Apostle of Allah (may peace be upon him) decided that the land is the land of Allah, and the servants are the servants of Allah. If anyone brings barren land into cultivation, he has more right to it. This tradition has been transmitted to us from the Prophet (may peace be upon him) by those who transmitted the traditions about prayer from him.<sup>2537</sup>

(3071) Samurah reported the Prophet (may peace be upon him) as saying: If anyone surrounds a land with a wall, it belongs to him.<sup>2538</sup>

(3072) Hishām said: The unjust vein means that a man implants a tree in the land of another man so that he may be entitled to it. Mālik said: The unjust vein means that a man takes (a thing), digs a pit, and implants a tree without (his) right.

(3073) Abū Ḥumaid al-Sā'idī said: I went to Tabūk on an expedition along with the Apostle of Allah (may peace be upon him). When he reached Wādī al-Qurā, he found a woman in her garden. The Apostle of Allah (may peace be upon him) said to his Companions: Assess (the quantity of fruits). The Apostle of Allah (may peace

2535. This means that a man grows a tree or builds structure in the land of a man who has cultivated it before him to show that the land belongs to him. The tree or similar other structure shall be removed from there. He has no right to this land.

2536. The Prophet (may peace be upon him) ordered to remove the trees from the land of other persons because they were illegal. A man has no right to grow trees in the land of another person without his permission.

2537. This means that a large number of Companions have transmitted this tradition.

2538. According to Ahmad b. Hanbal, the land belongs to a man by merely by surrounding it with a wall. Abū Hanīfah, Mālik and al-Shāfi'i maintain that mere surrounding is not sufficient for ownership. It is necessary to cultivate it, or to construct a wall for residence.

be upon him) assessed ten wasqs.<sup>2539</sup> He said to the woman : Count the produce of it. We then came to Tabūk. The monarch of Ailah<sup>2540</sup> presented a white mule as a gift to the Apostle of Allah (may peace be upon him). He presented a cloak as a gift to him and wrote a document for his land at sea-coast.<sup>2541</sup> When we came to Wādī al-Qurā,<sup>2542</sup> he said to the woman : How much is the produce of your garden ? She replied : Ten wasqs which the Apostle of Allah (may peace be upon him) had assessed.<sup>2543</sup> The Apostle of Allah (may peace be upon him) said : I am going quickly to Medina ; if any of you intends to go quickly with me, he should make haste.

(3074) Zainab said that she was picking lice from the head of the Apostle of Allah (may peace be upon him) while the wife of 'Uthmān b. 'Affān and the immigrant women were with him. They complained about their houses that they had been narrowed down to them and they were evicted from them. The Apostle of Allah (may peace be upon him) ordered that the houses of the Immigrants should be given to their wives. Thereafter 'Abd Allah b. Mas'ūd died, and his wife inherited his house in Medina.<sup>2544</sup>

### Chapter 1126

#### ON THE PURCHASE OF *KHARĀJ* LAND

(3075) Mu'ādh (b. Jabal) said : He who put the necklace of *jizyah* in his

2539. A wasq amounts to sixty sā's.

2540 The name of a place in Syria, at sea-coast.

2541. By imposing *jizyah* on them he gave protection of his land and people.

2542. The name of a place between Medina and Syria.

2543. The woman implanted the trees and watered them in the garden. She brought the land under cultivation. The Prophet (may peace be upon him) therefore, gave the land to her along with the trees.

2544. After the death of their husbands the wives of the Immigrants were evicted from their houses by the relatives of their husbands. They had no residence to live and to pass their waiting period. Thus they suffered much after the death of their husbands. It is not certain that the Prophet (may peace be upon him) gave them the houses as inheritance. Various explanations have been offered by commentators. First, the Prophet (may peace be upon him) provided residence for the Immigrants in the houses of the Helpers. He, therefore, allowed their wives to continue to live there in the same houses during their life. Second, he might have given plots of land to the Immigrants who constructed houses. Their wives were the owners of the houses which were constructed by their husbands. Third, he might have allowed the wives to reside in the houses of their husbands after their death not as an heir of the property, but with a view to facilitating them. The wives of the Prophet (may peace be upon him) were not owners of the apartments of the Prophet (may peace be upon him). But they were allowed to continue their residence there for some expediency. Fourth, he might have meant that the relatives of their husbands should not evict them from their houses till the end of their waiting period. ('*Awn al-Ma'būd*, III, 145).

neck<sup>2545</sup> abandoned the way followed by the Apostle of Allah (may peace be upon him).<sup>2546</sup>

(3076) Abū al-Dardā' reported the Apostle of Allah (may peace be upon him) as saying : If anyone takes land by (paying) its *jizyah*, he renounces his immigration ; and if anyone takes off the disgrace of an unbeliever from his neck he turns away his back from Islam.<sup>2547</sup> He (the narrator) said : Thereafter Khālid b. Ma'dān heard this tradition from me, and he said : Has Shubaib narrated it to you ? I said : Yes. He said ! When you come to him, ask him to write this tradition to me. He said : He then wrote it for him. When I came, Khālid b. Ma'dān asked me for the paper and I gave it to him. When he read (the paper), he abandoned the lands he had in his possession the moment he heard this."

Abū Dāwūd said : This Yazīd b. Khumair al-Yazani is not the disciple of Shu'bah.

2545. This means the purchase of *hharāj* land by a Muslim from a non-Muslim. If a man purchases *hharāj* land from a non-Muslim, he shall pay *hharāj* like the non-Muslims and not '*ushr*' (tithe). *Kharāj* is a kind of *jizyah* levied on non-Muslims.

2546. The Prophet (may peace be upon him) did not appreciate the purchase of *hharāj* land from the non-Muslims and pay *hharāj* (one-fifth) like them: This runs contrary to the established way followed by the Prophet (may peace be upon him).

2547. Here disgrace refers to *hharāj* which is a kind of *jizyah*. The Prophet (may peace be upon him) disapproved to purchase the lands of the protected people and pay *hharāj* on them. If a Muslim purchases land from a non-Muslim, he shall pay only *hharāj* according to Abū Ḥanīfah. The other jurists maintain that he shall pay both *hharāj* and '*ushr*'. If a non-Muslim embraces Islam, both *jizyah* and *hharāj* will be remitted from him. Only '*ushr*' will be levied.

There are many types of *hharāj* land. First, the land conquered by force by the Muslims and apportioned it among the fighters. The Muslim ruler then provides compensation to fighters and retains the land as State property for public benefit, and levies *hharāj* on the users of the land. 'Umar had done so in the lands of Iraq. Second, land conquered by peace on conditions that the land would belong to the Muslims and the non-Muslims may cultivate them by levying *hharāj* on them. The land will count as *fat'* property and the *hharāj* will be wages. The *hharāj* in this case will not be remitted by embracing Islam. Third, the land conquered by peace on condition that the land would belong to the non-Muslims who were its owners. *hharāj* will be levied on them as *jizyah* that will be remitted by embracing Islam.

The author of *al-Hidāyah* says that the Companions of the Prophet (may peace be upon him) had purchased *hharāj* lands and paid *hharāj* on them. Al-Baihaqī says that Ibn Mas'ūd, Khubbāb b. al-Arat, Ḥusan b. 'Alī and Shuraiḥ had *hharāj* lands. It is reported that some non-Muslims embraced Islam during the caliphates of 'Umar and 'Alī. Their lands were given to them and *hharāj* was levied. 'Umar and 'Alī are reported to have said ' If a man who has land embraces Islam, we shall remit *jizyah* from him and levy only *hharāj*' ('*Awn al-Ma'būd*, III, 145-46).

### Chapter 1127

#### ON LAND PROTECTED BY MUSLIM RULER FOR PUBLIC BENEFIT OR BY A MAN FOR HIS OWN USE

(3077) Al-Ṣa'b b. Jaththāmah reported the Apostle of Allah (may peace be upon him) as saying : There is no (permission for) protected land except for Allah and His Prophet.<sup>2548</sup>

Ibn Shihāb said : It has reached me that the Apostle of Allah (may peace be upon him) protected Naql'.<sup>2549</sup>

(3078) Al-Ṣa'b b. Jaththāmah said that the Prophet (may peace be upon him) protected Naql' and said : There is no (permission for) protected land except for Allah Most High.<sup>2550</sup>

### Chapter 1128

#### ON BURIED TREASURE AND THE LEVY ON IT

(3079) Abū Hurairah reported the Prophet (may peace be upon him) as saying : A fifth is payable on buried treasure.<sup>2551</sup>

2548. In pre-Islamic period chiefs and rich people used to protect grass lands for their own use. Thus they deprived public of their use and benefit. As water and grass are used by the people in general, the Prophet (may peace be upon him) forbade to protect such lands and deprive others of their benefit. He made exception for a Muslim ruler who is allowed to protect such grass land or water for the horses and camels of *jihād* or *sakās*. 'Umar had protected such a grass land called Naql' for the horses of *jihād* (*Awn al-Ma'būd*, III, 146).

2549 The name of a place near Medina where water was stored.

2550. There is no contradiction between the traditions about the prohibition of protecting land and those about bringing barren land into cultivation. The Prophet (may peace be upon him) forbade to protect such grass lands or water which involved public benefit. As grass lands and water are used by people in general, they should not be reserved for the use of a single man. As for barren lands, the Prophet (may peace be upon him) allowed to bring them into cultivation, and they belong to the cultivator. These lands do not involve public benefit.

2551. Abū Dawūd has abridged this tradition. The full tradition goes : "No retaliation is payable for a wound caused by a dumb animal, or for an accident in a well or a mine, but a fifth is payable on buried treasure." Al-Bukhārī and Muslim transmitted it.

The Arabic word *rikāz* used in the text is applied to treasure buried in the ground. This is its agreed meaning. Mālik and al-Shāfi'i maintain that it means the treasure buried by people in pre-Islamic times. According to Abū Ḥanīfah and al-Thawrī the word may mean metal in mines. Al-Khaṭṭābī says that the word *rikāz* applies both to buried treasure whose owner is not known, and to the gold and silver in mines. Al-Ḥāfiẓ al-Hirawī said : The scholars of Iraq and the scholars of Hijāz differ on the meaning of *rikāz*. According to the former, it means metal in mines and, according to the latter, it means treasure buried in pre-Islamic times. Lexicography allows both meanings (*Awn al-Ma'būd*, III, 147).



(3080) Al-Ḥasan said: *Rikāz* means treasure buried in pre-Islamic times.

(3081) Dubā'ah daughter of al-Zubair b. 'Abd al-Muṭṭalib b. Hāshim said : Al-Miqdād went to Baqī' al-Khabkhabah<sup>2552</sup> for a certain need. He found a mouse taking out a dīnār from a hole. It then continued to take out dīnārs one by one until it took out seventeen dīnārs. It then took out a red purse containing a dīnār. There were thus eighteen dīnārs. He took them to the Prophet (may peace be upon him), informed him and said to him : Take its *ṣadaqah*. The Prophet (may peace be upon him) asked him : Did you extend your hand toward the hole ? He replied : No. The Apostle of Allah (may peace be upon him) then said : May Allah bless you in it.<sup>2553</sup>

### Chapter 1129

#### ON DIGGING OUT ANCIENT GRAVES CONTAINING PROPERTY

(3082) 'Abd Allah b. 'Amr said : When we went out along with the Apostle of Allah (may peace be upon him) to al-Ṭā'if we passed a grave. I heard the Apostle of Allah (may peace be upon him) say : This is the grave of Abū Rīghāl.<sup>2554</sup> He was in this sacred mosque (sanctuary) protecting himself (from punishment). When he came out, he suffered the same punishment<sup>2555</sup> which his people suffered at this place, and he was buried in it. The sign of it is that a golden bough was buried with him. If you dig it out, you will find it with him. The people hastened to it and took out the bough.<sup>2556</sup>

2552. The name of a place in the neighbourhood of Medina.

2553. The Prophet (may peace be upon him) did not treat the dīnārs as buried treasure, for al-Miqdād did not take them by his labour. He treated them as a find. Hence he did not levy a fifth on it.

2554. He was the great-grandfather of Thaqīf. He belonged to Tuamūd. He confined himself to the sacred mosque to save himself from punishment. But when he came out, he was gripped in the same punishment inflicted on his people.

2555. The punishment was earthquake.

2556. The golden bough was the buried treasure. The Prophet (may peace be upon him) allowed the Muslims to take it out. This was a miracle of the Prophet (may peace be upon him).

This also shows that it is permissible to dig out the graves of the unbelievers if there is some benefit for the Muslims.

## XIV. KITĀB AL-JANA'IZ

### [ BOOK OF FUNERALS ]

#### *Chapter 1130*

#### DISEASES WHICH SERVE AS ATONEMENT FOR PREVIOUS SINS

(3083) 'Āmir al-Rām who belonged to the tribe of al-Khaḍir said : Abū Dāwūd said on the authority of al-Nufail : It is al-Khaḍir, but the narrator mentioned it so, i.e. al-Khaḍir : We were in our country when flags and banners were raised. I said : What is this ? They (the people) said : This is the banner of the Apostle of Allah (may peace be upon him). So I came to him. He was (sitting) under a tree. A sheet of cloth was spread for him and he was sitting on it. His Companions were gathered around him. I sat with them. The Apostle of Allah (may peace be upon him) mentioned illnesses and said : When a believer is afflicted by illness and Allah cures him of it, it serves as an atonement for his previous sins and a warning to him for the future, but when a hypocrite becomes ill and is then cured, he is like a camel which has been tethered and then let loose by its owners, but does not know why they, tethered it and why they let it loose. A man from among those around him asked : Apostle of Allah, what are illnesses ? I swear by Allah, I never fell ill. The Apostle of Allah (may peace be upon him) said : Get up and leave us. You do not belong to our number.<sup>2557</sup> When we were with him, a man came to him. He had a sheet of cloth and something in his hand. He turned his attention to him and said : Apostle of Allah, when I saw you, I turned towards you. I saw a host of trees and heard sound of the young ones of a bird. I took them and put them in my garment. Their mother then came and began to hover round my head. I disclosed them to her, and it fell on them. I wrapped them with my garment. They are now with me. He said : Put them away from you. So I put them away, but their mother stuck to them. The Apostle of Allah (may peace be upon him) said to his Companions : Are you surprised at the affection of the mother for its young ? They said : Yes, Apostle of Allah. He said : I swear by Him Who has sent me with Truth, Allah is more affec-

2557. Allah is so kind to Muslims that He remits their sins by their illness. The Prophet (may peace be upon him) has pointed out that a Muslim should bear illness cheerfully. It serves as atonement for his sins.

Illness is a sort of mercy from Allah to man.

tionate to His servants than a mother to its young ones. Go back with them till you put them from where you have taken them while their mother should be with them. So he returned with them.

(3084) Muḥammad b. Khālīd al-Sulamī on his father's authority said his grandfather reported. He was a Companion of the Apostle of Allah (may peace be upon him). He said : I heard the Apostle of Allah (may peace be upon him) say : When Allah has previously decreed for a servant a rank which he has not attained by his action, He afflicts him in his body, or his property or his children. Abū Dāwūd said : Ibn Nūfāl added in his version : "He then enables him to endure that." The agreed version goes : "So that He may bring him to the rank previously decreed for him by Allah."<sup>2558</sup>

### Chapter 1131

#### ON A MAN WHO IS ACCUSTOMED TO PERFORM A GOOD ACTION, BUT IT IS INTERRUPTED BY ILLNESS OR JOURNEY

(3085) Abū Mūsā said : I heard the Prophet (may peace be upon him) many times say : When a servant of Allah is accustomed to do a good work, then becomes ill or goes on a journey, what he was accustomed to do when he was well and staying at home will be recorded for him.<sup>2559</sup>

### Chapter 1132

#### ON VISITING SICK WOMEN

(3086) Umm al-'Alā' said : The Apostle of Allah (may peace be upon him) visited me while I was sick. He said : Be glad, Umm al-'Alā' for Allah removes the sins of a Muslim for his illness as fire removes the dross of gold and silver.<sup>2560</sup>

(3087) 'Ā'ishah said : I said : Apostle of Allah, I know the severest verse in the Qur'ān. He asked : Which is that verse, 'Ā'ishah ? She replied : Allah's words : "If anyone does evil, he will be requited for it."<sup>2561</sup> He said : Do you know, 'Ā'ishah,

2558. This shows that Allah enhances a person's rank by affliction, in whatever form it may be. Sometimes a man cannot attain the rank previously decreed by Allah for him. Therefore, to raise him to that rank He afflicts him in his body, property or children. One should not take calamity as the wrath of Allah. It is mercy from Him.

2559. This refers to his observance of prayer and fasting. He is given reward for the action he used to do at home or when he was well. This is also a mercy from Allah.

2560. If a Muslim falls ill, and shows patience, Allah purifies him from sins as fire purifies gold and silver from dross.

2561. Qur'ān, iv. 123.

that when a believer is afflicted with a calamity or a thorn, it serves as an atonement for his evil deed. He who is called to account will be punished. She said : Does Allah not say : "He truly will receive an easy reckoning."<sup>2562</sup> He said : This is the presentation,<sup>2563</sup> 'Ā'ishah. If anyone is criticised in reckoning, he will be punished.

Abū Dāwūd said : This is the version of Ibn Bashshār. He said : Ibn Abī Mulaikah narrated to us.

### Chapter 1133

#### ON VISITING THE SICK

(3088) Usāmah b. Zaid said : The Apostle of Allah (may peace be upon him) went out to visit 'Abd Allah b. Ubayy during his illness of which he died. When he entered upon him, he realised death on him. He said : I used to forbid you from the love of the Jews. He ('Abd Allah) said : As'ad b. Zurārah hated them. So what (he benefited) ? When he died, his son came and said : Prophet of Allah, 'Abd Allah b. Ubayy has died, give me your shirt, so that I shroud him in it. The Apostle of Allah (may peace be upon him) took off his shirt and gave it to him.<sup>2564</sup>

### Chapter 1134

#### ON VISITING THE SICK WHO IS A PROTECTED UNBELIEVER

(3089) Anas said : A young Jew became ill. The Prophet (may peace be upon him) went to visit him. He sat down by his head and said to him : Accept Islam. He looked at his father who was beside him near his head, and he said : Obey Abū al-Qāsim. So he accepted Islam, and the Prophet (may peace be upon him) stood up

<sup>2562</sup>. Qur'ān, lxxxiv. 8.

<sup>2563</sup>. This means that his actions will be presented, and he will receive no reckoning.

<sup>2564</sup>. This shows that visiting the sick has been recommended by the Prophet (may peace be upon him) and practised himself. He visited 'Abd Allah b. Ubayy who was a great hypocrite and a fatal enemy of Islam. The Prophet (may peace be upon him) thus taught to visit even the enemy during his illness.

Commentators have given four explanations for the Prophet's (may peace be upon him) giving his shirt to 'Abd Allah b. Ubayy. First, he might have showed respect to his son who was a sincere Muslim. Second, whenever the Prophet (may peace be upon him) was asked for anything, he never denied it. Third, when 'Abbās was captivated in the battle of Badr, he had no garment on him. 'Abd Allah b. Ubayy gave him his shirt. The Prophet (may peace be upon him) might have intended to compensate him. Fourth, he might have given this shirt to him before the revelation of the verse in which he was prohibited to pray for any unbeliever and to stand at his grave ('*Awn al-Ma'būd*), III, 151).

saying : Praise be to Allah Who has saved him through me from Hell.<sup>2565</sup>

### Chapter 1135

#### TO GO ON FOOT FOR VISITING THE SICK

(3090) Jābir said : The Prophet (may peace be upon him) would visit me (during my illness) riding neither a mule nor a pony.<sup>2566</sup>

### Chapter 1136

#### EXCELLENCE OF VISITING THE SICK AFTER PERFORMING ABLUTION

(3091) Anas b. Mālik reported the Apostle of Allah (may peace be upon him) as saying : If anyone performs ablution well and pays a sick-visit to his brother Muslim seeking his reward from Allah, he will be removed a distance of sixty years (*khartf*) from Hell. I asked : What is *khartf*, Abū Ḥamzah ? He replied : A year.

Abū Dāwūd said : Only the people of Baṣrah have narrated the tradition on visiting the sick after performing ablution.<sup>2567</sup>

(3092) 'All said : If a man visits a patient in the evening, seventy thousand angels come along with him seeking forgiveness from Allah for him till the morning, and he will have a garden in the Paradise.

(3093) The tradition mentioned above has also been transmitted by 'All from the Prophet (may peace be upon him) through a different chain of narrators to the same effect. This version does not mention the word "garden" (*khartf*).

Abū Dāwūd said : This tradition has been narrated by Maṣṣūr from al-Ḥakam as narrated by Shu'bah.

(3094) Abū Ja'far 'Abd Allah b. Nāfi', the slave of al-Ḥasan b. 'All said : Abū Mūsā paid a sick-visit to al-Ḥasan b. 'All.

Abū Dāwūd said : He narrated the tradition to the same effect as narrated by Shu'bah.

2565. This shows that it is commendable to visit a non-Muslim during his illness. In such cases Islam draws no distinction of religion. It behaves on humanitarian grounds.

2566. Another tradition indicates that the Prophet (may peace be upon him) visited Sa'd b. 'Ubadah while he was ill riding on a donkey. This shows that he visited the sick sometimes walking on foot and sometimes on a mount. Walking on foot is not necessary for visiting the sick.

2567. Performing ablution to visit the sick is not necessary. This tradition is weak. The narrator al-Faḍl b. Dalham is objectionable. Moreover, this tradition with the words "visiting the sick after performing ablution" has been narrated from Anas by the people of Baṣrah alone. No other narrator has transmitted this tradition from Anas with these words.



Abū Dāwūd said : This tradition has been transmitted by 'Alī from the Prophet (may peace be upon him) without any sound manner.

### *Chapter 1137*

#### ON FREQUENT SICK-VISITS

(3095) 'Ā'ishah said : When Sa'd b. Mu'ādh suffered affliction on the day of Trench (i.e. the battle of Trench) a man shot an arrow in the vein of his hand. The Apostle of Allah (may peace be upon him) pitched a tent for him in the mosque so that he might visit him from near.<sup>2568</sup>

### *Chapter 1138*

#### ON VISITING THE SICK WHO IS SUFFERING FROM EYESORE

(3096) Zaid b. Arqam said : The Apostle of Allah (may peace be upon him) visited me while I was suffering from pain in my eyes.

### *Chapter 1139*

#### ON DEPARTING FROM A PLACE WHERE PLAGUE HAS BROKEN OUT

(3097) 'Abd Allah b. 'Abbās said that 'Abd al-Rahmān b. 'Awf said : I heard the Apostle of Allah (may peace be upon him) say : When you hear that it is breaking out in a certain territory, do not go there. If it breaks out in the territory you are in, do not go out flying away from it. By it he referred to plague.<sup>2569</sup>

### *Chapter 1140*

#### ON PRAYING FOR RECOVERY OF THE SICK WHEN ONE VISITS HIM

(3098) 'Ā'ishah daughter of Sa'd said that her father said : I had a complaint at Mecca. The Apostle of Allah (may peace be upon him) came to pay a sick-visit to me. He put his hand on my forehead, wiped my chest and belly, and then said : O Allah !

2568. The Prophet (may peace be upon him) kept him in the mosque to visit him again and again. Had he been far away, he could not visit him frequently.

2569. The Prophet (may peace be upon him) forbade to visit a place where plague or some other epidemic has broken out. But he has also prohibited to fly away from the place where one is living and some epidemic breaks out there.

heal up Sa'd and complete his immigration.<sup>2570</sup>

(3099) Abū Mūsā al-Ash'arī reported the Apostle of Allah (may peace be upon him) as saying : Feed the hungry, visit the sick and free the captive. Sufyān said : *al-āni* means captive.

### Chapter 1141

#### PRAYER FOR THE SICK DURING SICK-VISIT

(3100) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying : If anyone visits a sick whose time (of death) has not come, and says with him seven times : I ask Allah, the Mighty, the Lord of the mighty Throne, to cure you, Allah will cure him from that disease.

(3101) Ibn 'Amr reported the Prophet (may peace be upon him) as saying : When a man comes to visit a sick person, he should say : O Allah, cure Thy servant, who may then wreak havoc on an enemy for Thy sake, or walk at a funeral for Thy sake.<sup>2571</sup>

### Chapter 1142

#### DISAPPROVAL OF WISHING FOR DEATH

(3102) Anas reported the Apostle of Allah (may peace be upon him) as saying : No one of you should wish for death for any calamity that befalls him, but he should say : O Allah ! cause me to live so long as my life is better for me ; and cause me to die when death is better for me.<sup>2572</sup>

(3103) Anas b. Mālik reported the Prophet (may peace be upon him) as saying : No one of you should wish for death. He then mentioned the rest of the tradition in a similar manner.

2570. Sa'd had migrated from Mecca to Medina. When he visited Mecca after its conquest, he became ill. He wished that he might die in Mecca. Therefore, the Prophet (may peace be upon him) prayed for him for the completion of his immigration. By this he meant that he might return to Medina before his death. Allah answered his prayer and he died in Medina.

2571. Both these works are great virtues which Allah likes very much. Hence the Prophet (may peace be upon him) referred to these virtues.

2572. Life is meant for good works and obedience to Allah. So long as a man follows the injunctions of Islam and obeys Allah, his life is better for him. But if his life is full of sins and he does not show obedience to Allah, his life is not better for him. In any case, Allah better knows when a man should die. Hence the Prophet (may peace be upon him) forbade to pray for death. He should always pray to Allah for good and safety, and endure afflictions patiently.

*Chapter 1143*

## ON A SUDDEN DEATH

(3104) 'Ubaid b. Khālid al-Sulamī, a man from the Companions of the Prophet (may peace be upon him), said : The narrator Sa'd b. 'Ubaidah narrated sometimes from the Prophet (may peace be upon him) and sometimes as a statement of 'Ubaid (b. Khālid) : The Prophet (may peace be upon him) said : Sudden death is a wrathful catching.<sup>2573</sup>

*Chapter 1144*

## ON THE EXCELLENCE OF A MAN WHO DIES OF PLAGUE

(3105) Jābir b. 'Atk said : The Apostle of Allah (may peace be upon him) came to pay a sick-visit to 'Abd Allah b. Thābit. He found that he was dominated (by the Divine decree).<sup>2574</sup> The Apostle of Allah (may peace be upon him) called him loudly, but he did not respond. He uttered the Qur'ānic verse "We belong to Allah and to Him do we return"<sup>2575</sup> and he said : We have been dominated against you, Abū al-Rabī'.<sup>2576</sup> Then the women cried and wept, and Ibn 'Atk began to keep them silent. The Apostle of Allah (may peace be upon him) said : Leave them, when the Divine decree comes in, no woman should weep.<sup>2577</sup> They (the people) asked : What is necessary happening, Apostle of Allah ? He replied : Death. His daughter said : hope you will be a martyr, for you completed your preparations for *jihād*. The Apostle of Allah (may peace be upon him) said : Allah, Most High, gave him reward according to his intention. What do you consider martyrdom ? They said : Being killed in the way of Allah. The Apostle of Allah (may peace be upon him) said : There are seven types of martyrdom in addition to being killed in Allah's way : One who dies of plague is a martyr ; one who is drowned is a martyr ; one who dies of pleurisy is a martyr ; one who dies of internal complaint is a martyr ; one who is burnt to death is a martyr ; who one is killed by a building falling on him is a

2573. Dying suddenly has not been appreciated by the Prophet (may peace be upon him). If a man gets time before his death, he repents for his sins and does more good works. He can pay off his debts and leave a will. But in the case of dying suddenly, he departs from the world with all his wishes and burdens with him.

2574. This refers to death.

2575. Qur'ān, ii. 156.

2576. It means that we want your life, but the Divine decree has come in our way. Hence there is no alternative.

2577. Literally, when what is necessary happens (*wajaba*). This refers to death.

martyr; and a woman who dies while pregnant is a martyr.<sup>2578</sup>

### Chapter 1145

#### ON CLIPPING NAILS AND SHAVING PUBES BY THE SICK BEFORE HIS DEATH

(3106) Abū Hurairah said : Banū al-Ḥārith b. 'Āmir b. Nawfal bought Khubaib.<sup>2579</sup> Khubaib killed al-Ḥārith b. 'Āmir on the day of Badr. Khubaib remained with them as a prisoner until they agreed on his killing. He borrowed a razor from the daughter of al-Ḥārith to shave his pubes.<sup>2580</sup> She lent it to him. A small child of her crept to him while she was inattentive. When she came, she found him alone and the child was on his thigh and the razor was in his hand. She was terrified and he realised its effect on her. He said : Do you fear that I shall kill him ? I am not going to do that.

Abū Dāwūd said : Shu'aib b. Abī Ḥamzah transmitted this narrative from al-Zuhrī. He said : 'Ubaid Allah b. 'Ayyāsh told me that the daughter of al-Ḥārith told him that when they gathered for killing him, he borrowed a razor from her to shave (his pubes). She lent it to him.

### Chapter 1146

#### TO HAVE GOOD FAITH IN ALLAH BEFORE ONE'S DEATH

(3107) Jābir b. 'Abd Allah said : I heard the Apostle of Allah (may peace be upon him) say three days before his death : No one of you dies but that he has good faith in Allah.<sup>2581</sup>

2578. These seven types of martyrs will get reward of martyrdom. But they will not be treated as martyrs legally in this world.

2579. His full name is Khubaib b. 'Adī b. Mālik b. 'Āmir al-Anṣārī al-Awsī. He participated in the battle of Badr with the Prophet (may peace be upon him). The Prophet (may peace be upon him) sent an expedition of ten Companions comprising Khubaib at the request of some unbelievers. On their way to Mecca they killed seven persons and sold the rest of them at Mecca. Banū al-Ḥārith bought Khubaib, for he killed their father al-Ḥārith b. 'Āmir. They kept him as a prisoner for some days and then killed him.

2580. This shows that it is commendable to shave pubes and clip nails by the sick if he suspects his death. This is meant for purification.

2581. This means that a dying man should have firm conviction that Allah is Merciful and Compassionate. He will surely forgive his sins and admit him to Paradise. One must not be disappointed of Allah's mercy. His mercy dominates His wrath.

*Chapter 1147*

## ON PURIFICATION OF THE CLOTHES OF A DYING MAN

(3108) Abū Sa'īd al-Khudrī narrated that when the time of his death came, he called for new clothes and put on them. He then said : I heard the Apostle of Allah (may peace be upon him) say : A deceased will be raised in the clothes in which he died.<sup>2582</sup>

*Chapter 1148*

## WHAT SHOULD BE SAID NEAR A DYING MAN

(3109) Umm Salamah said : The Apostle of Allah said : When you attend a dying man, you should say good words, for the angels say Āmīn to what you say. When Abū Salamah died, I said : What should I say, Apostle of Allah ? He said : O Allah, forgive him, and give us something good in exchange. She said : So Allah gave me Muḥammad (peace be upon him) in exchange for him.<sup>2583</sup>

*Chapter 1149*

## ON INSTRUCTING THE DYING MAN

(3110) Mu'ādh b. Jabal reported the Apostle of Allah (may peace be upon him) as saying : If anyone's last words are "There is no god but Allah," he will enter Paradise.<sup>2584</sup>

(3111) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying : Recite to those of you who are dying "There is no god but Allah."<sup>2585</sup>

2582. There is a difference of opinion on the meaning of clothes among the commentators. Some scholars think that it means shroud, for the Prophet (may peace be upon him) has mentioned the excellence of new and good shroud. Others hold that it refers to actions. According to an Arabic idiom, clothes mean actions. Therefore, it means that a man should do good works before his death. A dying man should put on pure clothes (*'Awn al-Ma'būd*, III, 158).

2583. Abū Salamah was former husband of Umm Salamah. After his death she became the wife of the Prophet (may peace be upon him).

2584. This shows that the people around the dying man should utter the credo of Islam so that he may repeat it by hearing it from them. He may be instructed.

2585. The dying man should not be forced to recite the credo. People should recite it themselves.



*Chapter 1150*

## ON CLOSING THE EYES OF A DYING MAN

(3112) Umm Salamah said : When the Apostle of Allah (may peace be upon him) entered upon Abū Salamah, his eyes were fixedly open. So he closed them. The members of his family cried. He said ; Do not pray for yourselves anything but good, for the angels utter *Āmīn* to what you say. He then said : O Allah, forgive Abū Salamah, raise his rank among those who are guided, and grant him a succession in his descendants who remain. Forgive both us and him, Lord of the Universe ; O Allah, make his grave spacious for him, and grant him light in it.

Abū Dāwūd said : The eyes of the deceased should be closed after his expiry. I heard Muḥammad b. al-Nu'mān al-Muqri say : I heard a man who was devoted to Allah say : I closed the eyes of Ja'far al-Mu'allim when he was dying. He was a man devoted to Allah. I saw him in a dream on the night he died. He said : The biggest thing for me was the closing of eyes by you before I died.<sup>2586</sup>

*Chapter 1151*TO RECITE THE QUR'ANIC VERSE "WE BELONG TO ALLAH,  
AND TO HIM DO WE RETURN"<sup>2587</sup>

(3113) Umm Salamah reported the Apostle of Allah (may peace be upon him) as saying : When one of you is afflicted with a calamity, he should say : "We belong to Allah, and to Him do we return." O Allah, I expect reward from Thee for this affliction ; so give me reward for it, and give me a better compensation.<sup>2588</sup>

*Chapter 1152*

## THE DEAD PERSON SHOULD BE COVERED WITH A GARMENT

(3114) 'Ā'ishah said : The Prophet (may peace be upon him) was covered with a striped Yemen garment (after his death).<sup>2589</sup>

2586. This shows that the eyes of a dying man should be closed after his death.

2587. Qur'ān, ii, 156.

2588. It is commendable to recite verse ii, 156 when a man is struck with some misfortune. If he is informed about the death of a Muslim or afflicted with some calamity, he should recite this verse. In this verse a Muslim has been taught that he should endure all sufferings cheerfully. Everything comes from Allah. Man is the creature of Allah, and finally he will return to Him.

2589. It is necessary to cover the dead body of a man after his death so that his private parts may not be disclosed. Moreover, sometimes there is some change in the body of a man after his death. Hence he should be covered with a cloth. This is meant to conceal the defects of a dead man from the eyes of the people.

*Chapter 1153*

## ON RECITING SURAH YĀSĪN BEFORE A DYING MAN

(3115) Ma'qil b. Yasār reported the Prophet (may peace be upon him) as saying : Recite Sūrah Yāsīn over your dying men.<sup>2590</sup> This is the version of Ibn al-'Alā'

*Chapter 1154*

## TO SIT DOWN WHEN ONE IS STRUCK WITH SOME CALAMITY

(3116) 'Ā'ishah said : When Zaid b. Ḥārithah, Ja'far and 'Abd Allah b. Rawāḥah were killed,<sup>2591</sup> the Apostle of Allah (may peace be upon him) sat down in the mosque and grief was visible on his face. Then he (the narrator) mentioned the rest of the tradition.

*Chapter 1155*

## ON CONDOLENCE

(3117) 'Abd Allah b. 'Amr b. al-'Āṣ said : We buried a deceased in the company of the Apostle of Allah (may peace be upon him). When we became free, the Apostle of Allah (may peace be upon him) returned and we also returned with him. When he approached his door, he stood, and we saw a woman coming towards him. He (the narrator) said : I think he recognised her. When she went away, we came to know that she was Fāṭimah. The Apostle of Allah (may peace be upon him) said to her : What brought you out of your house, Fāṭimah ? She replied : I came to the people of this house, Apostle of Allah, and I showed pity and expressed condolence to them for their deceased. The Apostle of Allah (may peace be upon him) said : You might have reached the graveyard<sup>2592</sup> with them. She replied : I seek refuge in Allah ! I heard you mentioning about it what you mentioned.<sup>2593</sup> He said : If you had

2590. Sūrah Yāsīn (xxxvi.) is described as the heart of the Qur'ān. There is a detailed description of the next world and creation and resurrection of man in this sūrah. The dying man feels peace and expires without much difficulty when Yāsīn is recited before him.

2591. They were killed in the battle of Mūtah. This shows that one should sit down when one is informed about some calamity.

2592. The Arabic word is *al-hudā* which means hard or stony land. This refers to the graveyard.

2593. This means that the Prophet (may peace be upon him) had forbidden women to visit graveyards.

reached the graveyard . . . He then mentioned severe words about it.<sup>2594</sup> I then asked Rabi'ah (a narrator of this tradition) about *al-kudā* (stony land). He replied : I think it means the graves.<sup>2595</sup>

### Chapter 1156

#### TO SHOW ENDURANCE WHEN ONE IS STRUCK WITH AN AFFLICTION

(3118) Anas said : The Prophet of Allah (may peace be upon him) came upon a woman who was weeping for her child. He said to her : Fear Allah and have patience. She said : What have you to do with my calamity ? She was then told that he was the Prophet (may peace be upon him). She, therefore, came to him. She did not find doorkeepers at his gate. She said : I did not recognise you, Apostle of Allah. He said : Endurance is shown only at the first blow.<sup>2596</sup>

### Chapter 1157

#### WEEPING FOR THE DEAD

(3119) Usāmah b. Zaid said : A daughter of the Apostle of Allah (may peace be upon him) sent him a message while I and Sa'd were with him and I think Ubayy was also there : My son or daughter (the narrator is doubtful) is dying, so come to us. He sent her a greeting, saying at the same time : Say ! what Allah has taken belongs to Him, what He has given (belongs to Him), and He has an appointed time for everything. She then sent a message adjuring him (to come to her). So he came to her and the child who was on the point of death was placed in the hearts of those whom He wished. Allah shows compassion only to those of His servants who are compassionate.<sup>2597</sup>

2594. Abū Dāwūd shortened this tradition and omitted the actual words. Al-Nasā'ī has recorded them : If you had reached it (the graveyard), you would not have seen Paradise until the grandfather of your father have seen it. It means that as your great grandfather 'Abd al-Muṭṭalib could not enter Paradise, you also would not enter it. 'Abd al-Muṭṭalib was an unbeliever.

2595. This tradition shows that it is commendable to visit the house of the bereaved and express condolence to him. It also shows that women should not visit the graveyard as they are soft-hearted. They cannot tolerate the awful scene.

2596. This means that patience for which a man is rewarded by Allah is one when he does not express his grief in the beginning of the calamity. It is no patience if a man wails and expresses his anxiety in the beginning of the calamity and afterwards shows his patience. Endurance is valid if it is shown at the first blow.

2597. This shows that if one feels regret and weeps for the dead, it is not forbidden. This is natural. What is prohibited is to mourn and cry, expressing thereby one's sadness and grief. Those

(3120) Anas b. Mālik reported the Apostle of Allah (may peace be upon him) as saying: A child was born to me at night and I named it Ibrāhīm<sup>2598</sup> after his father. He then narrated the rest of the tradition. Anas said: I saw it at the point of death before the Apostle of Allah (may peace be upon him). Tears began to fall from the eyes of the Apostle of Allah (may peace be upon him). He said: The eye weeps and the heart grieves, but we say only what our Lord is pleased with, and we are grieved for you, Ibrāhīm.<sup>2599</sup>

### Chapter 1158

#### WAILING FOR THE DEAD

(3121) Umm 'Āṭiyyah said: The Apostle of Allah (may peace be upon him) prohibited us to wail.<sup>2600</sup>

(3122) Abū Sa'id al-Khudrī said: The Apostle of Allah (may peace be upon him) cursed the wailing woman and the woman who listens to her.<sup>2601</sup>

(3123) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying: The dead is punished because of his family's weeping for him.<sup>2602</sup> When this was mentioned to 'Ā'ishah, she said: Ibn 'Umar forgot and made a mistake. The Prophet (may peace be upon him) passed by a grave and he said: The man in the grave is being punished while his family is weeping for him. She then recited: "No bearer of burdens can bear the burden of another."<sup>2603</sup>

The narrator Abū Mu'āwiyah said: (The Prophet passed) by the grave of a Jew.

(3124) Yazīd b. Aws said: I entered upon Abū Mūsā while he was at the point

who are compassionate and soft-hearted are generally moved by sad news. Weeping is, therefore, a sign of compassion.

2598. Ibrāhīm's mother was Māriyah Qibṭī.

2599. Silent weeping for the dead is no sin. Lamenting, crying and tearing one's clothes due to intense grief are not allowed.

2600. If eyes shed tears and the man keeps silence, there is no harm. But it is not allowed to lament, wail and weep excessively.

2601. If a woman wails for the dead, other women should not listen to her and share her lamentation. They should not meet together for mourning and lamentation.

2602. 'Ā'ishah does not accept this tradition narrated by Ibn 'Umar. She thinks Ibn 'Umar has forgotten or made a mistake. According to her, the Prophet (may peace be upon him) said these words about a Jewess that her family was weeping while she was being punished in the grave. Further, she contends that according to a Qur'ānic verse no soul would bear the burden of another soul. Therefore, the dead is not punished for his family's weeping. Other scholars explain it by saying that this refers to the custom of pagan Arabs of leaving a will for wailing and lamentation after death. If one leaves such a will, he will be punished in the grave (*ʿAwn al-Ma'būd*, III, 162).

2603. Qur'ān, vi. 164.

of death. His wife began to weep or was going to weep. Abū Mūsā said to her : Did you not hear what the Apostle of Allah (may peace be upon him) said ? She said : Yes. The narrator said : She then kept silence. When Abū Mūsā died, Yazīd said : I met the woman and asked her : What did Abū Mūsā mean when he said to you : Did you not hear what the Apostle of Allah (may peace be upon him) and then you kept silence ? She replied : The Apostle of Allah (may peace be upon him) said : He who shaves (his head), shouts and tears his clothing does not belong to us.<sup>2604</sup>

(3125) Usaid b. Abū Usaid, reported on the authority of a woman who took oath of allegiance (to the Prophet) : One of the oaths which the Apostle of Allah (may peace be upon him) received from us about the virtue was that we would not disobey him in it (virtue) : that we would not scratch the face, nor wail, nor tear the front of the garments nor dishevel the hair.<sup>2605</sup>

### *Chapter 1159*

#### TO PREPARE FOOD FOR THE PEOPLE WHO SUFFERED THE CALAMITY OF DEATH OF THEIR RELATIVE

(3126) 'Abd Allah b. Ja'far reported the Apostle of Allah (may peace be upon him) saying : Prepare food for the family of Ja'far for there came upon them an incident which has engaged them.<sup>2606</sup>

### *Chapter 1160*

#### ON WASHING THE MARTYR

(3127) Jābir said : A man had a shot of arrow in his chest or throat (the narrator is doubtful). So he died. He was shrouded in his clothes as he was. The narrator said : We were with the Apostle of Allah (may peace be upon him).<sup>2607</sup>

(3128) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) commanded to remove weapons and skins from the martyrs of Uḥud, and that they

2604. This refers to the custom of the pagan Arabs who lamented, shouted and tore their clothing for their dead. Islam does not allow such a practice. One must show endurance, one may weep silently.

2605. The Prophet (may peace be upon him) prohibited to tear clothes and scratch the face while weeping for the dead. One should have endurance and keep silence for the calamity that one has suffered.

2606. This tradition shows that the relatives should supply food to the bereaved family. But it is not allowed that the people gather at their home, and have a banquet like wedding. Others should help them instead of demanding food from them.

2607. This shows that the martyrs are not washed. They are buried without washing in the very clothes in which they were killed.



should be buried with their blood and clothes.<sup>2608</sup>

(3129) Anas b. Mālik said : The martyrs of Uḥud were not washed, and they were buried with their blood. No prayer was offered over them.<sup>2609</sup>

(3130) Anas b. Mālik said : The Apostle of Allah (may peace be upon him) passed Ḥamzah who was killed and disfigured. He said : If Ṣafīyyah were not grieved, I would have left him until the birds and beasts of prey would have eaten him, and he would have been resurrected from their bellies. The garments were scanty and the slain were in great number. So one, two and three persons were shrouded in one garment. The narrator Qutaibah added : They were then buried in one grave. The Apostle of Allah (may peace be upon him) asked : Which of the two learnt the Qur'ān more ? He then advanced him toward the *qiblah* (direction of prayer).<sup>2610</sup>

(3131) Anas said : The Prophet (may peace be upon him) passed by Ḥamzah who was disfigured (after being killed). He did not offer prayer over any martyr except him.<sup>2611</sup>

(3132) Jābir b. 'Abd Allah said : The Apostle of Allah (may peace be upon him) combined two persons from among the martyrs of Uḥud (in one garment), and said : Which of the two has learnt the Qur'ān more ? When one of them was pointed to him, he advanced him in the grave, saying : I shall be witness to all these (martyrs) on the Day of Judgment. He then ordered them to be buried without being washed.

(3133) The tradition mentioned above has also been transmitted by al-Laith through a different chain to the same effect. This version adds : He combined two persons from among the martyrs of Uḥud in one garment.

2608. The additional clothes, like fur, skin, and weapons should be removed from a martyr before burying him.

2609. There is a difference of opinion amongst scholars on offering prayer over the martyrs. According to Abū Ḥanīfah and Ishāq b. Rāhwaiḥ, prayer shall be offered over them. Al-Shāfi'ī and Aḥmad b. Ḥanbal maintain that no prayer will be offered over them. They argue on the basis of this tradition. Abū Ḥanīfah argues on the basis of some other traditions which indicate that prayer was offered over the martyrs of Uḥud. This question is, however, disputed.

2610. This shows that many dead persons can be shrouded in one garment and buried in one grave in the case of lack of garments and place of burial. Ibn Taimīyyah is of opinion that the garment was torn into pieces and distributed among the dead. The dead bodies were shrouded in each piece separately though they were not fully covered. He thinks they were not shrouded in one garment as it is forbidden to place many naked persons together. But the majority of scholars interpret this tradition literally. This was done under pressing necessity.

According to all scholars, a martyr is not washed, and no prayer is offered over him. Abū Ḥanīfah thinks he is not washed but prayer is offered over him. See also footnote 2609.

2611. Many explanations have been given for this tradition. The Prophet (may peace be upon him) did not offer prayer due to his engagement. A view goes that he offered prayer and he specially prayed for Ḥamzah.

*Chapter 1161*ON COVERING PRIVATE PARTS OF THE DEAD  
WHILE WASHING HIM

(3134) 'Ālī reported the Prophet (may peace be upon him) as saying: Do not unveil your thigh, and do not look at the thigh of the living and the dead.<sup>2612</sup>

(3135) 'Ā'ishah said: By Allah, we did not know whether we should take off the clothes of the Apostle of Allah (may peace be upon him) as we took off the clothes of our dead, or we should wash him while his clothes were on him. When they (the people) differed among themselves, Allah cast slumber over them until every one of them had put his chin on his chest.<sup>2613</sup> Then a speaker spoke from a side of the house, and they did not know who he was: Wash the Prophet (may peace be upon him) while his clothes are on him. So they stood to the Apostle of Allah (may peace be upon him) and washed him while he had his shirt on him. They poured water on his shirt, and rubbed him with his shirt and not with their hands. 'Ā'ishah used to say: If I had known beforehand about my affair what I have come to know later, none would have washed him except his wives.<sup>2614</sup>

*Chapter 1162*

## HOW TO WASH THE DEAD

(3136) Umm 'Āṭiyyah said: The Apostle of Allah (may peace be upon him) came in when his daughter died, and he said: Wash her with water and lotus leaves three or five times or more than that if you think fit,<sup>2615</sup> and put camphor, or some camphor in the last washing, then inform me when you finish. When we had finished we in

2612. It is necessary to cover private parts of the dead while he is washed. There is no distinction between the living and the dead in respect of covering private parts.

2613 This means that everyone was sleeping.

2614. 'Ā'ishah thought about the affair of washing of the Prophet (may peace be upon him) later on and she remembered his tradition which has been narrated by Ibn Mājah. It says: Addressing 'Ā'ishah the Prophet (may peace be upon him) said: It would not harm you if you die before me, I shall wash you, shroud you, offer prayer over you and bury you. This shows that a husband can wash his wife and wife her husband. Moreover 'Ālī washed Fāṭimah after her death. This is the majority view. According to Abū Ḥanīfah, a wife can wash her husband but a husband cannot wash his wife.

2615. This shows that it is commendable to wash the dead three or five times. The number of washing should be odd. Besides, lotus leaves or soap or anything which cleans the body should be used.

formed him, and he threw us his lower garment saying : Put it next to her body.<sup>2616</sup>

Mālik's version has : that is, his lower garment (*izār*) ; and Musaddad did not say : He entered in.

(3137) The tradition mentioned above has also been transmitted by Umm 'Aṭṭīyah through a different chain of narrators to the same effect. This version adds : We braided her hair in three plaits.

(3138) The above tradition has also been transmitted by Umm 'Aṭṭīyah through a different chain of narrators. This version has : We braided her hair in three plaits and placed them behind her back, one plait of the front side and the two side plaits<sup>2617</sup>

(3139) Umm 'Aṭṭīyah said : The Apostle of Allah (may peace be upon him) said to them while washing her daughter : Begin with her right side, and the places where the ablution is performed.<sup>2618</sup>

(3140) The tradition mentioned above has also been transmitted by Umm 'Aṭṭīyah through a different chain of narrators. This version has : (Wash her) seven times or more if you think fit.

(3141) Qatādah said : Muḥammad b. Sirīn used to learn how to wash the dead from Umm 'Aṭṭīyah : he would wash with lotus leaves twice and with water and camphor for the third time.

## Chapter 1163

### ON SHROUDING THE DEAD

(3142) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) made a speech one day and mentioned a man from among his Companions who died and was shrouded in a shroud of bad quality, and was buried at night. The Prophet (may peace be upon him) rebuked that man be buried at night until prayer was offered over him, except that a man was forced to do that. The Prophet (may peace be upon him) said : When one of you shrouds his brother, he should use a shroud of good quality.<sup>2619</sup>

2616. The name of the daughter of the Prophet (may peace be upon him) was Zainab. The Prophet (may peace be upon him) gave his lower garment to wrap her body in as a blessing.

2617. This tradition shows that it is commendable to comb the hair of the dead woman after washing her. The hair should be braided into three plaits. Al-Auzā'i and Abū Ḥanīfah are of view that the hair of the dead woman should be left unplaited. They contend that this was not approved by the Prophet (may peace be upon him).

2618. This tradition indicates that the dead body should be washed beginning with his right side and an odd number of times as another tradition says.

2619. This means that the shroud should be neat and clean, and the whole body of the dead is covered with it.

(3143) 'Ā'ishah said that the Apostle of Allah (may peace be upon him) was shrouded in a garment of Yemenī stuff; it was then removed from him.

(3144) Jābir reported the Apostle of Allah (may peace be upon him) as saying : When one of you dies, and he possesses something,<sup>2620</sup> he should be shrouded in the garment of the Yemenī stuff.

(3145) 'Ā'ishah said : The Apostle of Allah (may peace be upon him) was shrouded in three garments of white Yemenī stuff, among which was niether a shirt nor a turban.<sup>2621</sup>

(3146) A similar tradition has also been transmitted by 'Ā'ishah through a different chain of narrators. This version adds : "of cotton". The narrator said : 'Ā'ishah was told that the people said that he was shrouded in two garments and one cloak. She replied : A cloak was brought but they returned it and did not shroud him in it.

(3147) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) was shrouded in three garments made in Najrān : two garments and one shirt in which he died.<sup>2622</sup>

Abū Dāwūd said : The narrator 'Uthmān said : In three garments : two red garments and a shirt in which he died.

## Chapter 1164

### ON COSTLY SHROUD

(3148) 'Alī b. Abū Ṭālib said : Do not be extravagant in shrouding, for I heard the Apostle of Allah (may peace be upon him) say : Do not be extravagant in shrouding, for it will be quickly decayed.<sup>2623</sup>

(3149) Khabbāb said : Mus'ab b. 'Umair was killed on the day of Uhud. He had only a striped cloak. When we covered his head with it, his feet appeared; and when we covered his feet, his head appeared. Thereupon the Apostle of Allah (may peace

2620. This means that if a man is rich and in a position to purchase costly cloth for the shroud, he may do so. If one is poor, he may provide shroud within his means.

2621. The Prophet (may peace be upon him) was shrouded neither in shirt nor in turban. But he was shrouded in three garments other than these. It is, therefore, commendable that the shroud should not contain shirt and turban. According to Abū Ḥanīfah and Mālik, shirt and turban are recommended for a shroud. But their view contradicts this tradition. The tradition of 'Ā'ishah is most authentic on the shroud of the Prophet (may peace be upon him).

2622. This tradition contradicts the tradition of 'Ā'ishah and other authentic traditions which say that there was no shirt in his shroud. Al-Nawawī observes that this tradition is weak. The narrator Yazīd b. Abī Ziyād is not reliable unanimously (*'Awn al-Ma'būd*, III, 170).

2623. Costly and precious shroud is not required. One should avoid extravagance in shrouding, for it is decayed soon. One should use cloth of medium quality.

be upon him) said : Cover his head with it, and cover his feet with some grass.<sup>2624</sup>

(3150) 'Ubādah (b. al-Ṣāmit) reported the Apostle of Allah (may peace be upon him) as saying : The best shroud is a lower garment and one which covers the whole body,<sup>2625</sup> and the best sacrifice is a horned ram.

### Chapter 1165

#### SHROUD OF A WOMAN

(3151) Lailā daughter of Qā'if al-Thaqafīyyah said : I was one of those who washed Umm Kalthūm, daughter of the Prophet (may peace be upon him), when she died. The Apostle of Allah (may peace be upon him) first gave us lower garment, then shirt, then head-wear, then cloak (which covers the whole body), and then she was shrouded in another garment. She said : The Apostle of Allah (may peace be upon him) was sitting at the door, and he had shroud with him. He gave us the garments one by one.<sup>2626</sup>

### Chapter 1166

#### THE USE OF PERFUME FOR THE DEAD

(3152) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying : The best of your perfumes is musk.<sup>2627</sup>

### Chapter 1167

#### HURRYING THE FUNERAL AND DISAPPROVAL OF WITHHOLDING THE DEAD FOR LONG

(3153) Al-Ḥuṣāin b. Waḥūj said : Ṭalḥah b. al-Barā' fell ill and the Prophet (may peace be upon him) came to pay him a sick-visit. He said : I think Ṭalḥah has died ;

2624. This shows that if one does not have sufficient cloth for shroud, the dead can be shrouded in one garment.

2625. The Arabic word is *ḥullāh* which means the two garments known as the *izār* (lower garment) and *ridā'* (a cloak which covers the whole body). This shows that a shroud normally contains three garments, and not more.

2626. The shroud of a male consists of three garments : one shirt from shoulders to feet and two cloaks, i.e. long sheets, which cover the whole body from head to feet. The shroud of a female consists of five garments : three garments like those of a male, one head-wear, and one garment which covers her body from chest to her knees.

2627. This shows that it is commendable to use perfume for the shroud and body of the dead after washing. It is better to use musk.



so tell me (about his death), and make haste, for it is not advisable that the corpse of a Muslim should remain withheld among his family.<sup>2628</sup>

### Chapter 1168

#### TAKING A BATH BY A MAN WHO WASHES THE DEAD

(3154) 'Ā'ishah said : The Prophet (may peace be upon him) used to take a bath on account of sexual defilement, on Friday, for cupping and washing the dead.<sup>2629</sup>

(3155) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : He who washes the dead should take a bath, and he who carries him should perform ablution.

(3156) The tradition mentioned above has also been transmitted by Abū Hurairah through a different chain of narrators to the same effect.

Abū Dāwūd said : This has been abrogated. When Aḥmad b. Ḥanbal was asked about a man taking a bath after his washing-the dead, I heard him say : Ablution is sufficient for him.

Abū Dāwūd said : The narrator Abū Šāliḥ made a mention of the narrator Ishāq, the client of Zā'idah between him and Abū Hurairah. He said : The tradition of Mus'ab is weak. It contains many things that are not practised.<sup>2630</sup>

### Chapter 1169

#### KISSING THE DEAD

(3157) 'Ā'ishah said : I saw the Apostle of Allah (may peace be upon him) that he kissed 'Uthmān b. Maz'ūn while he was dead, and I saw that tears were flowing (from his eyes).<sup>2631</sup>

2628. It is commendable that after the death of a Muslim his dead body should be buried as early as possible. It is disapproved to leave it withheld at home for long without any valid reason.

2629. This tradition is weak. The chain of narrators is not reliable. It is not necessary for a man to take a bath after washing the dead. If he thinks that his body has become unclean by the impurity from the dead, he may take a bath or wash it if he knows the exact spot. There is no harm if one takes a bath after washing the dead. But it is not necessary.

2630. Al-Khaṭṭābī says that he does not know whether any jurist holds that taking a bath by a man who washes the dead is obligatory, or ablution is necessary for a man who carries him. They might be commendable. One may, however, take a bath or perform ablution as a precaution after washing the dead.

2631. 'Uthmān b. Maz'ūn was the foster-brother of the Prophet (may peace be upon him). He was an immigrant. He was the first among the immigrants to die. The Prophet (may peace be upon him) kissed him out of love for him. Abū Bakr is also said to have kissed the Prophet (may peace be upon him) when he died. This shows that kissing the dead out of respect or love is permissible.

*Chapter 1170***BURYING THE DEAD AT NIGHT**

(3158) Jābir b. 'Abd Allāh said : The people saw fire (light) in the graveyard and they went there. They found that the Apostle of Allāh (may peace be upon him) was in a grave and he was saying : Give me your companion. This was a man who used to raise his voice while mentioning the name of Allāh.<sup>2632</sup>

*Chapter 1171***SHIFTING THE DEAD FROM ONE TERRITORY TO ANOTHER AND ITS DISAPPROVAL**

(3159) Jābir b. 'Abd Allāh said : On the day of Uhūd we brought the martyrs to bury them (at another place), but the crier of the Prophet (may peace be upon him) came and said : The Apostle of Allāh (may peace be upon him) has commanded you to bury the martyrs at the place where they fell. So we took them back.<sup>2633</sup>

*Chapter 1172***ROWS OF THE FUNERAL PRAYER**

(3160) Mālik b. Hubairah reported the Apostle of Allāh (may peace be upon him) as saying : If any Muslim dies and three rows of Muslims pray over him, it will assure him (of Paradise). When Mālik considered those who accompanied a bier to be a few, he divided them into three rows in accordance with this tradition.<sup>2634</sup>

*Chapter 1173***WOMEN ACCOMPANYING A BIER**

(3161) Umm 'Aṭṭīyah said : We were forbidden to accompany the biers, but it

2632. This shows that it is permissible to bury the dead at night.

2633. This prohibition is peculiar to the martyrs. They should be buried where they die. As for the dead in general, they can be shifted from one place to another. Sa'd b. Abī Waqqāṣ and Sa'id b. Zaid died in 'Aqīq, but they were shifted to Medina. We also find many other such examples of the Companions (*'Awn al-Ma'būd*, III, 174).

2634. This shows that it is recommended to make three (or any odd number) rows while offering the funeral prayer.

was not stressed upon us.<sup>2635</sup>

### Chapter 1174

#### EXCELLENCE OF PRAYER OVER THE DEAD AND TO ACCOMPANY A BIER

(3162) Abū Hurairah<sup>2636</sup> said : If anyone attends the funeral and prays over (the dead), he will get the reward of one qirāṭ,<sup>2637</sup> and if anyone attends the funeral until the completion (of the burial), he will get the reward of two qirāṭs, the smaller of them being equivalent to Uḥud, or one of them being equivalent to Uḥud.

(3163) Dāwūd b. 'Āmir b. Sa'd b. Abī Waqqāṣ said that his father 'Āmir b. Sa'd was with Ibn 'Umar b. al-Khaṭṭāb when Khabbāb, the owner of the closet (*maqṣurrah*), came and said : 'Abd Allah b. 'Umar don't you hear what Abū Hurairah says ? He heard the Apostle of Allah (may peace be upon him) say : If anyone goes out of his house, accompanies a bier and prays over it. . . . He then mentioned the rest of the tradition as narrated by Sufyan. Thereupon Ibn 'Umar sent someone to 'Ā'ishah (asking her about it). She replied : Abū Hurairah spoke the truth.

(3164) Ibn 'Abbās said : I heard the Prophet (may peace be upon him) say : If any Muslim dies and forty men who associate nothing with Allah stand over his bier, Allah will accept them as intercessors for him.<sup>2638</sup>

### Chapter 1175

#### CARRYING FIRE WITH A BIER

(3165) Abū Hurairah reported the Prophet (may peace be upon him) as saying : A bier should not be followed by a loud voice (of wailing) or fire.<sup>2639</sup>

2635. The prohibition was approximating to permissibility and not to unlawfulness. She meant that the Prophet (may peace be upon him) did not stress this prohibition as much as he used to do with respect to other prohibitions. This implies that women may accompany a bier. But it is better to avoid this practice.

2636. This tradition has been narrated by Abū Hurairah in the collections of Bukhārī and Muslim from the Prophet (may peace be upon him). But here he does not refer to the Prophet (may peace be upon him).

2637. The qirāṭ is a small weight, a twentieth or twenty-fourth of a dīnār. Here it has been used figuratively. Being equivalent to the hill Uḥud means that the reward will be very great.

2638. This shows that a large number of people should attend the funeral prayer. The minimum number may be forty. If forty or more people pray over a dead person, Allah will forgive him.

2639. This tradition indicates that there should be no noise and crying while carrying the bier. It is not allowed to take burning incenses along with the bier.

Abū Dāwūd said : The narrator Hārūn added : Nor should one go before a bier.

### Chapter 1176

#### STANDING UP FOR A FUNERAL

(3166) 'Āmir b. Rabī'ah reported the Prophet (may peace be upon him) as saying : When you see a funeral, stand up for it till it leaves you behind or it is placed (on the ground).<sup>2640</sup>

(3167) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying : When you follow a funeral, do not sit until the bier is placed (on the ground).

Abū Dāwūd said : This tradition has been narrated by al-Thawrī (i.e. Sufyān) from Suhail, from his father on the authority of Abū Hurairah. This version has : until it (the bier) is placed on the ground. It has also been narrated by Abū Mu'āwiyah from Suhail. This has : Until it is placed in the grave.

Abū Dāwūd said : Sufyān's version is more guarded than that of Abū Mu'āwiyah.

(3168) Jābir said : We were with the Prophet (may peace be upon him) when a funeral passed him and he stood up for it. When we went to carry it, we found that it was the funeral of a Jew. We, therefore, said : Apostle of Allah, this is the funeral of a Jew. He said : Death is a fearful event, so when you see a funeral, stand up.

(3169) 'Alī b. Abī Ṭālib said : The Prophet (may peace be upon him) stood up for a funeral (to show respect) and thereafter<sup>2641</sup> he sat down.

(3170) 'Ubādah b. al-Ṣāmit said : The Apostle of Allah (may peace be upon him) used to stand up for a funeral until the corpse was placed in the grave. A learned Jew (once) passed him and said : This is how we do. The Prophet (may peace be upon him) sat down and said : Sit down and act differently from them.<sup>2642</sup>

2640. There is a difference of opinion amongst scholars on this question. According to one point of view, one should stand up if one sees the bier. This is held by Aḥmad, al-Auzā'ī and Ishāq. Abū Ḥanīfah, Mālik and al-Shāfi'ī maintain that it is not necessary to stand up if one sees the funeral. This tradition has been repealed in their opinion. As regards those who accompany the bier, it is necessary for them to remain standing until the bier is placed on the ground ('*Awn al-Ma'būd*, III, 176-77).

2641. This has been explained in a twofold way. First, he abandoned standing up for funerals in the future. Second, when the bier passed and the people accompanying the bier went ahead, the Prophet (may peace be upon him) sat down. According to Abū Ḥanīfah and others, it means that he discontinued the practice of standing up for funerals.

2642. Al-Tirmidhī says that this is a weak tradition. The narrator Bishr b. Rāfi' is weak. Abū Bakr al-Ḥamdānī observes that this has been repealed. The tradition of Abū Sa'īd is sounder and stronger than this tradition in respect of chain. Some scholars are of opinion that standing to show

## Chapter 1177

## ACCOMPANYING THE FUNERAL WHILE RIDING ON A BEAST

(3171) Thawbān said : An animal was brought to the Apostle of Allah (may peace be upon him) while he was going with a funeral. He refused to ride on it. When the funeral was away, the animal was brought to him and he rode on it. He was asked about it. He said : The angels were on their feet. I was not to ride while they were walking. When they went away, I rode.<sup>2643</sup>

(3172) Jābir b. Samurah said : The Prophet (may peace be upon him) offered funeral prayer over Ibn al-Daḥdāḥ while we were present. He was then brought a horse, and it was tied until he rode it. It then began to gallop and we were running around it.

## Chapter 1178

## WALKING BEFORE THE FUNERAL

(3173) Sālim reported on the authority of his father : I saw the Prophet (may peace be upon him) and Abū Bakr and 'Umar walking before the funeral.<sup>2644</sup>

(3174) Al-Mughīrah b. Shu'bah said : (I think that the people of Ziyād informed me that he reported on the authority of the Prophet [may peace be upon him] : A rider should go behind the bier, and those on foot should walk behind it, in front of it, on its right and on its left keeping near it. Prayer should be offered<sup>2645</sup> over an abortion and forgiveness and mercy supplicated for its parents.

respect to funerals has been abrogated by the tradition of 'Alī b. Abī Ṭālib ('*Awn al-Ma'būd*, III, 178).

2643. It is disapproved to accompany a funeral while riding on an animal, but it is allowed to ride when returning from the funeral.

2644. There is a difference of opinion amongst scholars on walking before the funeral. According to Abū Ḥanīfah and al-Auzā'i, it is better to walk behind the funeral. Al-Thawrī and a group of scholars maintain that it is equally permissible to go before or behind the bier. Mālik, al-Shāfi'i and Aḥmad hold that it is better to walk before the funeral. According to another version, Aḥmad is of view that the rider should go behind the funeral and the man on foot should walk before the funeral. This is all commendable and not necessary.

2645. There is a difference of opinion amongst scholars on saying prayer over abortion. Ibn 'Umar, Ibn Sīrīn and Ibn al-Musayyab maintain that prayer should be said whether there is a voice from it or not. Aḥmad b. Ḥanbal and Ishāq b. Rāḥwaih hold that if it completes four months and ten days, prayer should be offered, otherwise not. Ibn 'Abbās, Jābir and Abū Ḥanīfah are of view that if there is a voice from it, prayer should be offered ; in case there is no voice, prayer should not be offered. This is the view of Mālik, al-Auzā'i and al-Shāfi'i ('*Awn al-Ma'būd*, III, 179).



### Chapter 1179

#### WALKING QUICKLY WITH A FUNERAL

(3175) Abū Hurairah reported the Prophet (may peace be upon him) as saying: Walk quickly with a funeral, for if the dead person was good it is a good condition to which you are sending him on, but if he was otherwise it is an evil of which you are ridding yourselves.<sup>2646</sup>

(3176) 'Uyainah b. 'Abd al-Raḥmān reported on the authority of his father that he attended the funeral of 'Uthmān b. 'Abī al-'Āṣ. He said: We were walking slowly. Abū Bakrah then joined us and he raised his flog at us and said: You have seen us when we were with the Apostle of Allah (may peace be upon him). We were walking quickly.

(3177) 'Uyainah also reported the aforementioned tradition through a different chain of transmitters. This version goes: We attended the funeral of 'Abd al-Raḥmān b. Samurah and he said: He (Abū Bakrah) made his mule run quickly and pointed with the flog.<sup>2647</sup>

(3178) Ibn Mas'ūd said: We asked the Prophet (may peace be upon him) about walking with the funeral. He replied: Not running (but walking quickly). If he (the dead person) was good, send him to it quickly; if he was otherwise, keep away the people of Hell. The bier should be followed and should not follow. Those who go in front of it are not accompanying it.<sup>2648</sup>

Abū Dāwūd said: The narrator Yaḥyā b. 'Abd Allah is weak. He is Yaḥyā al-Jābir.

Abū Dāwūd said: This is from Kūfah, and Abū Mājidah is from Baṣrah.

Abū Dāwūd said: Abū Mājidah is obscure.<sup>2649</sup>

### Chapter 1180

#### THE MUSLIM RULER SHOULD NOT PRAY OVER A MAN WHO COMMITTS SUICIDE

(3179) Jābir b. Samurah said: A man fell it and a cry was raised (for his death).

2646. It is not permissible to run with the funeral. But people should walk with quick pace. Besides, after the death of a person funeral preparations for burying him should be made quickly. Unnecessary delay is disapproved.

2647. By pointing with his flog Abū Bakrah meant that the people should walk quickly.

2648. This means that they will not get the reward. This tradition emphasises that people should follow the bier.

2649. According to Abū Dāwūd, this tradition is weak

So his neighbour came to the Apostle of Allah (may peace be upon him) and said to him : He has died. He asked : Who told you ? He said : I have seen him. The Apostle of Allah (may peace be upon him) said : He has not died. He then returned. A cry was again raised (for his death). He came to the Apostle of Allah (may peace be upon him) and said : He has died. The Prophet (may peace be upon him) said : He has not died. He then returned. A cry was again raised over him. Her wife said : Go to the Apostle of Allah (may peace be upon him) and inform him. The man said : O Allah, curse him. He said : The man then went and saw that he killed himself with an arrowhead. So he went to the Prophet (may peace be upon him) and informed him that he had died. He asked : Who told you ? He replied : I myself saw him that he had killed himself with arrowheads. He asked : Have you seen him ? He replied : Yes. He then said : Then I shall not pray over him.<sup>2650</sup>

### Chapter 1181

#### PRAYER OVER A MAN WHO IS KILLED AS A RESULT OF PUNISHMENT OF *HADD*

(3180) Abū Barzat al-Aslamī said that the Apostle of Allah (may peace be upon him) did not pray over Mā'iz b. Mālik, and he did not prohibit to pray over him.<sup>2651</sup>

2650. To commit suicide is unlawful in Islam. If a man has suffered a calamity, he should show tolerance and expect reward from Allah for this suffering. He should not lose heart and commit suicide. The Prophet (may peace be upon him) did not pray so that people might take lesson and avoid this sin. 'Umar b. 'Abd al-'Azīz and al-Auzā'ī maintain that prayer should not be offered over a man who killed himself. The majority of jurists hold that prayer should be said over him ('*Awn al-Ma'būd*, III, 180).

2651. Mā'iz was a 'Companion of the Prophet (may peace be upon him). He committed adultery. On his acknowledgment he was stoned to death. It is disputed whether the Prophet (may peace be upon him) prayed over him or not. This tradition shows that the Prophet (may peace be upon him) did not pray over him. Al-Mundhirī observes that the chain of this tradition contains some obscure transmitters. Al-Bukhārī has recorded a tradition through Maḥmūd b. Ghailān. It says that the Prophet (may peace be upon him) prayed over him. These are two contradictory traditions. Scholars have harmonised by saying that he did not pray over him the same day, but he prayed the following day, as narrated by 'Abd al Razzāq. The Prophet (may peace be upon him) also prayed over a woman called Ghāmidīyyah who was stoned to death due to adultery. 'Alī is reported to have ordered to pray over a woman who was stoned to death as a punishment for adultery. This is the view of the majority of scholars. Al-Shāfi'ī holds that prayer should not be abandoned over any man who belongs to the people of *qiblah*, whether good or bad. Abū Ḥanīfah and al-Auzā'ī maintain that the man who is stoned to death should be washed and prayer said over him. Mālik is of view that if the Muslim ruler orders to kill a man as a *hadd* punishment, he should not pray over him, but his people or others should pray over him. Aḥmad b. Ḥanbal maintains that prayer should not be said over a man who kills himself and who assassinates ('*Awn al-Ma'būd*, III, 181).

## Chapter 1182

## PRAYER OVER A CHILD

(3181) 'Ā'ishah said : Ibrāhīm, the son of the Prophet (may peace be upon him), died when he was eighteen months old. The Apostle of Allah (may peace be upon him) did not pray over him.<sup>2652</sup>

(3182) Al-Bahīyy said : When Ibrāhīm, the son of the Prophet (may peace be upon him) died, he prayed over him at the place where he used to sit.<sup>2653</sup>

Abū Dāwūd said : I recited to Sa'īd b. Ya'qūb al-Ṭāliqānī saying : Ibn al-Mubārak transmitted to you from Ya'qūb b. al-Qa'qā' on the authority of 'Aṭā' that the Prophet (may peace be upon him) prayed over his son Ibrāhīm when he was seventy days old.<sup>2654</sup>

## Chapter 1183

## FUNERAL PRAYER IN THE MOSQUE

(3183) 'Ā'ishah said : I swear by Allah, the Apostle of Allah (may peace be upon him) prayed over Suhail b. al-Baiḍā' in the mosque.<sup>2655</sup>

(3184) 'Ā'ishah said : I swear by Allah, the Apostle of Allah (may peace be upon him) prayed in the mosque over the two sons of al-Baiḍā' : Suhail and his brother.

(3185) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as

2652. It is disputed whether the Prophet (may peace be upon him) prayed over his son or not. Some traditions indicate that he prayed. Scholars have offered many explanations for not praying over him : (1) that a prophet does not pray over a prophet. It is presumed that he would be a prophet if he survived ; (2) that the Prophet (may peace be upon him) was busy in offering prayer at an eclipse that day, and could not get time ; (3) that he did not pray himself ; others prayed over him ; (4) that he did not pray in congregation. He prayed alone (*'Awn al-Ma'būd*, III, 182).

2653. This tradition is *mursal*, i.e. the link of the Companion is missing.

2654. This tradition is also *mursal*. The tradition transmitted by 'Ā'ishah has a perfect chain. Therefore, it is more reliable than others.

2655. The sons of Baiḍā' were three : Sahl, Suhail and Saḥwān. Baiḍā' was their mother. Suhail embraced Islam in the early days. This tradition indicates that it is permissible to offer funeral prayer in the mosque. This is the widely held view. Mālik did not like this practice. Ibn Abī Dhī'b and Abū Ḥanīfah disapproved funeral prayer in the mosque when the bier is placed in it. They apprehend that the mosque might be smeared with some impurity falling from the bier. If the bier is outside the mosque, the prayer is allowed in the mosque by the consensus of opinion. They think that the bier of Suhail was placed outside the mosque. But this interpretation is not correct. 'Umar is reported to have prayed over Abū Bakr in the mosque, and Ṣuhāib prayed over 'Umar in the mosque while the bier was placed in it (*'Awn al-Ma'būd*, III, 182).

saying : If anyone prays over the dead in the mosque, there is nothing on him."<sup>2656</sup>

### Chapter 1184

#### BURIAL OF THE DEAD AT SUNRISE AND SUNSET

(3186) 'Uqbah b. 'Āmir said : There were three times at which the Apostle of Allah (may peace be upon him) used to forbid us to pray or bury our dead—when the sun begins to rise till it is fully up, when the sun is at its height at midday till it passes the meridian, and when the sun draws near to setting till it sets, or as he said.<sup>2657</sup>

### Chapter 1185

#### WHEN THE FUNERAL PRAYER IS OFFERED OVER A MAN AND A WOMAN TOGETHER, WHICH OF THEM SHOULD BE PLACED FORWARD

(3187) Yahyā b. Šubaiḥ said : 'Ammār client of al-Ḥārith b. Nawfal told me that he attended the funeral of Umm Kalthūm.<sup>2658</sup> and her son. The body of the boy was placed near the *imām*. I objected to it. Among the people there were Ibn 'Abbās, Abū Sa'īd al-Khudrī, Abū Qatādah and Abū Hurairah. They said : This is the *sunnah* (established practice of the Prophet).<sup>2659</sup>

<sup>2656</sup>. The two previous traditions indicate that funeral prayer in the mosque is permissible. Several explanations of this tradition have been offered. It means that there is no sin or harm in offering funeral prayer in the mosque. It may also mean that the mosque and other places are equal in respect of praying over the dead. One will get equal reward wherever one prays. The version narrated by Ibn Mājah has : "there is nothing for him" instead of "there is nothing on him". Here it means that he will get no reward, for a man who attends the funeral, prays over the dead, and stays till the burial is complete will get the reward of qīrāt (*Awn al-Ma'būd*, III, 182-83)

<sup>2657</sup>. The majority of scholars maintain that it is disapproved to offer funeral prayer at these times. Al-Shāfi'ī thinks there is no harm to offer funeral prayer or to bury the dead at any time. In the chapter heading by the word "burial" Abū Dāwūd means funeral prayer.

<sup>2658</sup>. Umm Kalthūm was the daughter of 'Alī b. Abī Ṭālib and she was 'Umar's wife. Her son from 'Umar was Zaid b. 'Umar. They died together and prayer was offered over them collectively.

<sup>2659</sup>. This tradition shows that funeral prayer can be offered over many dead persons collectively as the Prophet (may peace be upon him) had done at Uhud. When the biers of men and women are placed together for prayer, men should be placed first near the *imām* and then women.

## Chapter 1186

WHERE SHOULD THE *IMĀM* STAND WHEN HE LEADS THE FUNERAL PRAYER OVER THE DEAD?

(3188) *Nāfi'* *Abū Ghālib* said : I was in the *Sikkat al-Mirbad*.<sup>2660</sup> A bier passed and a large number of people were accompanying it. They said : Bier of 'Abd Allah b. 'Umair. So I followed it. Suddenly I saw a man who had a thin garment on him riding on his small mule. He had a piece of cloth on his head to protect himself from the sun. I asked : Who is this important man ? They replied : This is *Anas b. Mālik*.<sup>2661</sup> When the bier was placed, *Anas* stood and led the funeral prayer over him while I was just behind him, and there was no obstruction between me and him. He stood near his head, and uttered four *takbirs* (Allah is Most Great) He neither lengthened the prayer nor hurried. He then went to sit down. They said : *Abū Ḥamzah*,<sup>2662</sup> (here is a bier of) an *Anṣārī* woman. They brought her near him and there was a green cupolaed structure over her bier. He stood opposite her paddocks and led funeral prayer over her as he had led over the man. He then sat down. *Al-'Alā' b. Ziyād* asked : *Abū Ḥamzah*, did the Apostle of Allah (may peace be upon him) say funeral over the dead as you have done, uttering four *takbirs* (Allah is Most Great) over her, and standing opposite the head of a man and paddocks of a woman ? He replied : Yes. He asked : *Abū Ḥamzah*, did you fight along with the Apostle of Allah ? He replied : Yes, I fought along with him in the battle of *Ḥunain*. The polytheists came out and invaded us so severely that we saw our horses behind our backs. Among the people (i.e. the unbelievers) there was a man who was attacking us, and striking and wounding us (with his sword). Allah then defeated them. They were then brought and began to take the oath of allegiance to him on Islam. A man from among the Companions of the Prophet (may peace be upon him) said : I take a vow on myself that if Allah brings the man who was striking us (with his sword) that day, I shall behead him. The Apostle of Allah (may peace be upon him) kept silence and the man was brought (as a captive). When he saw the Apostle of Allah (may peace be upon him), he said : Apostle of Allah, I have repented to Allah. The Apostle of Allah (may peace be upon him) stopped (for a while) from receiving his oath of allegiance, so that the other man might fulfil his vow. But the man began to wait for the order of the Apostle of Allah (may peace be upon him) for his murder. He was afraid of the Apostle of Allah (may peace be upon him) to kill him. When the Apostle of Allah (may peace be upon him)

2660. The name of a place in *Baṣrah*.

2661. He was a Companion of the Prophet (may peace be upon him) He served him for ten years. He died in 92 or 93 A.H. in the age of more than one hundred years.

2662. *Kunyah* (surname) of *Anas b. Mālik*.



saw that he did not do anything, he received his oath of allegiance. The man said : Apostle of Allah, my vow ? He said : I stopped (from receiving his oath of allegiance) today so that you might fulfil your vow. He said : Apostle of Allah, why did you not give any signal to me ? The Prophet (may peace be upon him) said : It is not worthy of a Prophet to give a signal. Abū Ghālib said : I asked (the people) about standing of Anas opposite the paddocks of a woman. They told me that this practice was due to the fact that (in the days of the Prophet) there were no cupolaed structures<sup>2663</sup> over the biers of women. So the *Imām* used the stand opposite the paddocks of a woman to hide her from the people.<sup>2664</sup>

Abū Dāwūd said : The saying of the Prophet (may peace be upon him) "I have been commanded to fight against the people until they say : There is no god but Allah" abrogated this tradition of fulfilling the vow by his remark : "I have repented."

(3189) Samurah b. Jundub said : I prayed behind the Prophet (may peace be upon him) over a woman who had died in childbirth, and he stood opposite her waist.

### Chapter 1187

#### UTTERING *TAKBIRS* DURING THE FUNERAL PRAYER

(3190) Al-Sha'bi said : The Apostle of Allah (may peace be upon him) passed a grave dug freshly. They arranged<sup>2665</sup> a row and uttered four *takbirs*<sup>2666</sup> over it. I asked al-Sha'bi : Who told you ? He replied : A reliable person whom 'Abd Allah b. 'Abbās attended.<sup>2667</sup>

(3191) Ibn Abi Lailā said : Zaid b. Arqam used to utter four *takbirs* (Allah is

2663. There was a green cupolaed structure over the bier of the woman, still Anas stood opposite her paddocks and not opposite her head. The reason is that Anas followed the *sunna* of the Prophet (may peace be upon him) by standing opposite her paddocks. He did not care for the structure which concealed her.

2664. There is a difference of opinion among scholars as to where the *Imām* should stand while leading the funeral prayer. Aḥmad and Abū Yūsuf maintain that he should stand opposite the head of a man and paddocks of a woman. Abū Ḥanīfah and his followers hold that the *Imām* should stand opposite the chest of the dead, whether man or woman, Mālik is of view that the *Imām* should stand opposite the waist of a man, and opposite the shoulders of a woman ('*Awn al-Ma'būd*, III, 186).

2665. The Prophet (may peace be upon him) along with the Companions stood in a row to offer funeral prayer over the grave.

2666. There was a difference of opinion amongst the Companions on the number of *takbirs* in funeral prayer. They uttered in the early stage from three to nine *takbirs*. Later on agreement on four *takbirs* was reached. This is the view held by the majority ('*Awn al-Ma'būd*, III, 187).

2667. This means that 'Abd Allah b. 'Abbās was present when that reliable man narrated this tradition.

Most Great) over our dead persons (during prayer). He uttered five *takbīrs* on a dead person. So I asked him. He replied : The Apostle of Allah (may peace be upon him) used to utter those.

Abū Dāwūd said : I remember the tradition of Ibn al-Mathannā in a more guarded way.

### Chapter 1188

#### WHAT SHOULD BE RECITED IN THE FUNERAL PRAYER ?

(3192) Ṭalḥah b. 'Abd Allah b. 'Awf said : I prayed over a dead person along with Ibn 'Abbās. He recited Sūrat al-Fātiḥah and he said : This is the *Sunnah*.<sup>2668</sup>

### Chapter 1189

#### SUPPLICATION FOR THE DEAD

(3193) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : When you pray over the dead, make a sincere supplication for him.

(3194) 'Alī b. Shammākh said : I was present with Marwān who asked Abū Hurairah : Did you hear how the Apostle of Allah (may peace be upon him) used to pray over the dead ? He said : Even with the words that you said. The narrator said : They exchanged hot words between them before that. Abū Hurairah said : O Allah, Thou art its Lord, Thou didst create it, Thou didst guide it to Islam, Thou hast taken its spirit, and Thou knowest best its inner nature and outer aspect. We have come as intercessors, so forgive him.

Abū Dāwūd said : Shu'bah made a mistake in mentioning the name of 'Alī b. Shammākh. He said in his version : 'Uthmān b. Shammās.

Abū Dāwūd said : I heard Aḥmad b. Ibrāhīm al-Mawṣilī say that Aḥmad b. Ḥanbal said : In every meeting which I attended with Ḥammād b. Zaid he forbade to narrate traditions from 'Abd al-Wārith and Ja'far b. Sulaimān.

(3195) Abū Hurairah reported that when the Apostle of Allah (may peace be upon him) prayed over a dead person, he said : O Allah, forgive those of us who are living and those of us who are dead, those of us who are present and those of us who are absent, our young and our old, our male and our female ; O Allah, to whomsoever of us Thou givest life grant him life as a believer, and whomsoever of us Thou takest in death take him in death as a follower of Islam. O Allah, do not withhold from us

2668. This is a disputed question. According to Mālik and Abū Ḥanīfah, it is not commendable to recite al-Fātiḥah in the funeral prayer. Al-Shāfi'ī, Aḥmad b. Ḥanbal and Ishāq maintain that Sūrat al-Fātiḥah should be recited in the funeral prayer (*ʿAwn al-Ma'būd*, III, 188).

the reward (of faith) and do not lead us astray after his death.

(3196) Wāthilah b. al-Asqa' said : The Apostle of Allah (may peace be upon him) led us in prayer over a Muslim and I heard him say : O Allah, so and so, son of so and so, is in Thy protection, so guard him from the trial in the grave. 'Abd al-Rahmān said : "In Thy protection and in Thy nearer presence, so guard him from the trial in the grave and the punishment in Hell. Thou art faithful and worthy of praise. O Allah, forgive him and show him mercy. Thou art the forgiving and the merciful one."<sup>2669</sup>

'Abd al-Rahmān said : "On the authority of Marwān b. Jānāh."

## Chapter 1190

### PRAYER OVER THE GRAVE

(3197) Abū Hurairah said : A negress (or a youth) used to sweep the mosque. The Prophet (may peace be upon him) missed him, and when he asked about him the people told him that he had died. He said : Why have you not informed me ? He

2669. A number of traditions indicate that starting the funeral prayer one should utter *takbīr* (Allah is Most Great), then praise Allah, recite *Ṣūrat al-Fātiḥah*, invoke blessing on the Prophet (may peace be upon him) and finally supplicate for the dead. Thereafter the second *takbīr* (Allah is Most Great) should be uttered and then one should invoke blessing on the Prophet (may peace be upon him) and supplicate for the dead. This should be followed by the third *takbīr* (Allah is Most Great). One should then invoke blessing on the Prophet (may peace be upon him) and pray for the dead. Finally, one should utter the fourth *takbīr* (Allah is Most Great) should not say anything after that but utter salutation to end the prayer. The traditions indicate that the Prophet (may peace be upon him) recited many supplications in funeral prayer on various occasions. One is, therefore, allowed to recite any supplication of the Prophet (may peace be upon him). Further, according to Mālik and Aḥmad, one should utter salutation only once and according to Abū Ḥanīfah and al-Shāfi'i twice. Both views are based on traditions: This is a disputed question.

It is also disputed whether one should recite the supplications loudly or silently. A group of Companions and Successors hold that one should recite silently. Mālik maintains that supplications should be recited so loudly that the man standing near by may hear them. According to Abū Yūsuf, one should be moderate in recitation. Abū Ḥanīfah holds that supplications should be recited silently.

As for raising hands, Ibn al-Mubārak, al-Shāfi'i, Aḥmad and Ishāq maintain that one should raise hands at the time of uttering each *takbīr* (four times with each *takbīr*). Abū Ḥanīfah and al-Thawri are of view that one should raise hands only with the first *takbīr* and not after that.

According to Abū Ḥanīfah, one should praise Allah after the first *takbīr*, invoke blessing on the Prophet (may peace be upon him) after the second *takbīr*, make supplication for the dead after the third *takbīr*, and utter salutation after the fourth *takbīr* ('*Awn al-Ma'būd*, III, 194-95).

said: Lead me to his grave. So they led him and he prayed over him.<sup>2670</sup>

### Chapter 1191

#### PRAYER OVER A MUSLIM WHO DIES IN THE TERRITORY OF POLYTHEISTS

(3198) Abū Hurairah said: The Apostle of Allah (may peace be upon him) gave the people news of the death of the Negus on the day on which he died, took them out to the place of prayer, drew them up in rows and said: "Allah is Most Great" four times.<sup>2671</sup>

(3199) Abū Burdah reported on the authority of his father: The Apostle of Allah (may peace be upon him) commanded us to proceed to the land of the Negus. Mentioning the rest of the tradition he said that the Negus said: I bear witness that he is the Apostle of Allah (may peace be upon him), and it is he about whom Christ son of Mary gave good news. If I were not in the land in which I am, I would come to him and carry his shoes.

### Chapter 1192

#### BURYING MANY DEAD PERSONS TOGETHER IN A GRAVE AND MARKING THE GRAVE

(3200) Al-Muṭṭalib said: When 'Uthmān b. Maz'ūn died, he was brought out on his bier and buried. The Prophet (may peace be upon him) ordered a man to bring him a stone, but he was unable to carry it; so the Apostle of Allah (may peace be upon him) got up and going over to it rolled up his sleeves. The narrator Kathīr told that al-Muṭṭalib remarked: The one who told me about the Apostle of Allah (may peace be upon him) said: I still seem to see the whiteness of the forearms of the

2670. This shows that it is permissible to pray over the grave even after the prayer had been offered over the dead. Aḥmad b. Ḥanbal maintains that one can pray over the grave till one month. Al-Shāfi'ī holds that prayer can be offered over the grave until the body of the dead is not spoiled. (*'Awn al-Ma'būd*, III, 197).

2671. The Negus had embraced Islam. As he died in Abyssinia, there was none to pray over him. Hence the Prophet (may peace be upon him) prayed over him in Medina. This shows that it is permissible to pray over a dead Muslim even if his body is not present there. This is held by al-Shāfi'ī, Aḥmad and the majority of scholars. Ibn Ḥazm says that none of the Companions has been reported to forbid it. Abū Ḥanīfah and Mālik hold that it is not permissible to pray over a dead Muslim if the body is not present there. They argue that it was a particular case. The Negus died in a non-Muslim territory and none is reported to have prayed over him. Hence the Prophet (may peace be upon him) prayed. It cannot be generalised. Some scholars think that Allah presented the body of the Negus before the Prophet (may peace be upon him) when he prayed. (*'Awn al-Ma'būd*, III, 198)

Apostle of Allah (may peace be upon him) when he rolled up his sleeves. He then carried it and placed it at his head saying : I am marking my brother's grave with it, and I shall bury beside him those of my family who die.<sup>2672</sup>

### *Chapter 1193*

#### IF A GRAVE-DIGGER FINDS THE BONE, SHOULD HE LEAVE THAT PLACE ?

(3201) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying : Breaking a dead man's bone is like breaking it when he is alive.<sup>2673</sup>

### *Chapter 1194*

#### DIGGING NICHE IN THE SIDE OF THE GRAVE

(3202) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : The niche in the side of the grave is for us and the excavation in the middle is for others.<sup>2674</sup>

### *Chapter 1195*

#### HOW MANY PERSONS SHOULD ENTER THE GRAVE TO BURY THE DEAD ?

(3203) 'Āmir said : 'Alī, Faḍl and Usāmah b. Zaid washed the Apostle of Allah (may peace be upon him) and they put him in his grave. Marḥab or Ibn Abī Marḥab told me that they also made 'Abd al-Raḥmān b. 'Awf join them. When 'Alī became free, he said : The people of the man serve him.<sup>2675</sup>

2672. 'Uthmān b. Maz'ūn was a foster-brother of the Prophet (may peace be upon him). He wanted to bury his relatives at one place near each other in the graveyard. This also shows that one can mark the grave to remember it.

2673. This tradition indicates that one should respect a Muslim when he is dead just as he was respected when he was alive. Further, if a grave digger finds a bone at some place, he should not break it, but leave the place and dig another place.

2674. Scholars are agreed that burying the dead in the niche or in the excavation in the middle is permissible. However, if the ground is hard and the soil does not fall down from the edges of the grave, the niche is better. If the ground is soft, then excavation in the middle is preferable.

The phrase "for us" means for the Muslims of this community ; the phrase "for others" refers to the past communities. This tradition indicates that burying in the niche is better for Muslims.

2675. This was an excuse made by 'Alī to senior Companions who also wanted to participate in putting him in the grave.



(3204) Abū Marḥab said that 'Abd al-Raḥmān b. 'Awf alighted in the grave of the Prophet (may peace be upon him). He said : I still seem to see the four of them.<sup>2676</sup>

### Chapter 1196

#### THE DEAD SHOULD BE PLACED IN THE GRAVE FROM THE SIDE OF HIS LEGS

(3205) Abū Ishāq said : Al-Ḥārith left his will that 'Abd Allah b. Yazīd should offer his funeral prayer ; so he prayed over him. He then put him in the grave from the side of his legs and said : This is a *Sunnah* (model practice of the Prophet).<sup>2677</sup>

### Chapter 1197

#### HOW SHOULD ONE SIT NEAR THE GRAVE ?

(3206) Al-Barā' b. 'Āzib said : We went out with the Apostle of Allah (may peace be upon him) to the funeral of a man of the *Anṣār*, but when we reached the grave, the niche in the side had not yet been made, so the Prophet (may peace be upon him) sat down facing the *qiblah*, and we sat down along with him.<sup>2678</sup>

### Chapter 1198

#### ON SUPPLICATION FOR THE DEAD WHEN HE IS PUT IN THE GRAVE

(3207) Ibn 'Umar said : When the Prophet (may peace be upon him) placed the dead in the grave, he said : In the name of Allah, and following the *Sunnah* of the Apostle of Allah (may peace be upon him).<sup>2679</sup> This is Muslim's version.

2676. This shows that four persons can enter the grave to place the dead in the grave.

2677. This shows that the dead body of a Muslim should be placed in the grave from the side of his legs. This is held by al-Shāfi'ī and Aḥmad. Abū Ḥanīfah holds that he should be placed in the grave from the side of the *qiblah*. He argues from the tradition narrated by al-Baihaqī that the Companions put the Prophet (may peace be upon him) in his grave from the side of the *qiblah*. But al-Baihaqī observes that this is a weak tradition. It may, however, be noted that al-Tirmidhī recorded a tradition on the authority of Ibn 'Abbās that the dead should be placed in the grave from the side of the *qiblah*. It seems that there is a choice in the matter (*'Awn al-Ma'būd*, III, 205-06).

2678. This shows that one should sit near the grave facing the *qiblah*.

2679. Another version says : In the name of Allah, by Allah's grace and following the religion of the Apostle of Allah. Aḥmad, al-Tirmidhī and Ibn Mājah transmitted it.

## Chapter 1199

WHAT SHOULD A MAN DO WHEN HIS  
NON-MUSLIM RELATIVE DIES ?

(3208) 'All said : I said to the Prophet (may peace be upon him) : Your old and astray uncle has died. He said : Go and bury your father, and then do not do anything until you come to me. So I went, buried him and came to him. He ordered me (to take a bath), so I took a bath, and he prayed for me.<sup>2680</sup>

## Chapter 1200

## DIGGING THE GRAVE DEEP

(3209) Hishām b. 'Āmir said : The *Anṣār* came to the Apostle of Allah (may peace be upon him) on the day of Uhud and said : We have been afflicted with wound and fatigue. How do you command us ? He said : Dig graves, make them wide, bury two or three in a single grave. He was asked : Which of them should be put first ? He replied : The one of them who knew most of the Qur'ān. He (Hishām) said : My father 'Āmir died on that day and was buried with two or one.<sup>2681</sup>

(3210) The tradition mentioned above has also been transmitted by Ḥumaid b. Hilāl with a different chain of transmitters and to the same effect. This version adds : "And deepen (the graves)."<sup>2682</sup>

(3211) This tradition has also been transmitted by Sa'd b. Hishām b. 'Āmir with a different chain of narrators.

## Chapter 1201

## LEVELLING THE GRAVES

(3212) Abū Ḥayyāj al-Asadī said : 'All said to me : I am sending you on the same mission as the Apostle of Allah (may peace be upon him) sent me that I should not

2680. This shows that Abū Ṭālib was not a Muslim when he died. This also indicates that one should take a bath after burying a non-Muslim.

2681. This tradition shows that many persons can be buried in one grave if needed. But this is not permissible in normal conditions.

This also indicates that the grave should be dug deep. There is a difference of opinion amongst scholars as to the depth of the grave. According to al Shāfi'i, it should be equal to the stature of a man of moderate height. 'Umar b. 'Abd al-'Azīz says that it should be dug up to the navel of a man. Mālik thinks that there is no limit for its depth. 'Umar is reported to have said that the graves should be dug equal to the stature of a man (*'Awn al-Ma'būd*, III, 207).

2682. By deepening the graves the bad smell does not come out and spread on the surface.

leave a high grave without levelling it<sup>2683</sup> and an image without obliterating it.<sup>2684</sup>

(3213) Abū 'Alī al-Hamdānī said : We were with Fuḍālah b. 'Ubaid at Rūdis<sup>2685</sup> in the land of Rome. One of our Companions died, Fuḍālah commanded us to dig his grave ; it was (dug and) levelled. He then said : I heard the Apostle of Allah (may peace be upon him) commanding to level them.

Abū Dāwūd said : Rūdis is an island, in the sea.

(3214) Al-Qāsim said : I said to 'Ā'ishah ! Mother, show me the grave of the Apostle of Allah (may peace be upon him) and his two Companions (Allah be pleased with them). She showed me three graves which were neither high nor low, but were spread with soft red pebbles in an open space.

Abū 'Alī said : It is said that the Apostle of Allah (may peace be upon him) is forward, Abū Bakr is near his head and 'Umar is near his feet. His head is at the feet of the Apostle of Allah (may peace be upon him).

### Chapter 1202

#### BEGGING PARDON FOR THE DEAD AT THE GRAVE BEFORE RETURNING

(3215) 'Uthmān b. 'Affān said : When the Prophet (may peace be upon him) became free from burying the dead, he stayed at him (i.e. his grave) and said : Seek forgiveness for your brother, and beg steadfastness for him, for he will be questioned now.<sup>2686</sup>

Abū Dāwūd said : The full name of the narrator Buḥair is Buḥair b. Raisān.

### Chapter 1203

#### DISAPPROVAL OF SLAUGHTERING AN ANIMAL AT THE GRAVE

(3216) Anas reported the Apostle of Allah (may peace be upon him) as saying :

2683. This tradition shows that the graves should not be raised high much above the ground. Another tradition says : The Prophet (may peace be upon him) forbade that graves should be plastered with gypsum, that any erection should be built over them, and that people should sit on them. This has been transmitted by Muslim in his *Ṣaḥīḥ*. This view is held by al-Shāfi'ī. Mālik maintains that it is better to bump the graves. Aḥmad, al-Shāfi'ī and Mālik are agreed that graves should not be raised much from the ground. They may be raised about a span or so high ('*Awn al-Ma'būd*, III, 207).

2684. To make the image or draw a picture of an animate object is not allowed. That should be obliterated.

2685. The name of an island near Alexandria in the Mediterranean.

2686. This tradition shows that the people should pray for forgiveness for the dead before their departure. After the death of a Muslim, people can help their brother by their prayer to Allah for him and by reciting the Qur'ān and feeding the poor.

There is no slaughtering (at the grave) in Islam.<sup>2687</sup>

'Abd al-Razzāq said : They used to slaughter cows or sheep at the grave.

### Chapter 1204

#### PRAYING OVER THE GRAVE OF THE DEAD AFTER PASSING SOME TIME

(3217) 'Uqbah b. 'Āmir said : One day the Apostle of Allah (may peace be upon him) went out and prayed over the martyrs of Uḥud like his prayer over the dead, and then returned.<sup>2688</sup>

(3218) Yazīd b. Ḥabīb said : The Prophet (may peace be upon him) prayed over the martyrs of Uḥud after eight years like a man who bids farewell to the living and dead.<sup>2689</sup>

### Chapter 1205

#### BUILDING A STRUCTURE OVER THE GRAVE

(3219) Jābir said : I heard the Prophet (may peace be upon him) forbid to sit on the grave, to plaster it with gypsum, and to build any structure over it.<sup>2690</sup>

(3220) The tradition mentioned above has also been narrated by Jābir through a different chain of transmitters.

Abū Dāwūd : 'Uthmān said : "or anything added to it." Sulaimān b. Mūsā said :

2687. The Arabs before Islam used to slaughter camels at the grave of a man who was generous in feeding the people. They thought that they were feeding beasts and birds after his death as he used to feed the people during his lifetime. The Prophet (may peace be upon him) forbade this practice after the advent of Islam.

2688. This shows that it is permissible to pray over the grave after passing some period of time. The Prophet (may peace be upon him) prayed over the grave of the martyrs of Uḥud after eight years.

2689. The battle of Uḥud took place in Shawwāl 3 A.H. and the Prophet (may peace be upon him) died in Rabī' al-Awwāl 11 A.H. Thus the period is seven years five months and not complete eight years. The Prophet (may peace be upon him) prayed over the graves of the martyrs of Uḥud to bid them farewell as he might have learnt about his death in 11 A.H. It is also said that the Prophet (may peace be upon him) was busy on the day of Uḥud, and he could not pray over them. Hence he prayed over their graves before his death ('*Awn al-Ma'būd*, III, 209).

2690. This tradition indicates that no structure should be built over the graves. They should not be plastered with gypsum. But there is no harm to mark the grave or place with some stone or anything as a sign for remembering it.

"or anything written on it."<sup>2691</sup> Musaddad did not mention in his version the words "or anything added to it".

Abū Dāwūd said: The word "and that" (*wa an*) remained hidden to me.

(3221) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: Allah's curse be on the Jews. They made the graves of their Prophets mosques.<sup>2692</sup>

### Chapter 1206

#### DISAPPROVAL OF SITTING ON A GRAVE

(3222) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: It is better that one of you should sit on live coals which burn his clothing and come in contact with his skin than that he should sit on a grave.<sup>2693</sup>

(3223) Abū Marthad al-Ghanawī reported the Apostle of Allah (may peace be upon him) as saying: Do not sit on graves, and do not pray facing them.<sup>2694</sup>

### Chapter 1207

#### WALKING IN SHOES BETWEEN THE GRAVES

(3224) Bashīr, the client of the Apostle of Allah (may peace be upon him), reported (his name in pre-Islamic days was Zaḥm b. Ma'bad): He migrated to the Apostle of Allah (may peace be upon him). He asked: What is your name? He replied: Zaḥm. He said: No, you are Bashīr. He (Bashīr) said: When I was walking along with the Apostle of Allah (may peace be upon him) he passed by the graves of the polytheists. He said: They lived ahead of (a period of) abundant good.<sup>2695</sup> He said this three times. He then passed by the graves of Muslims. He said: They got abundant good. The Apostle of Allah (may peace be upon him) suddenly saw a man walking in shoes between the graves. He said: O man wearing the shoes! woe to thee!

2691. This shows that additional earth should not be gathered on the grave. The earth taken out from the grave is sufficient for covering it. It is also disapproved to write the name and other relevant details of the dead on the grave (*'Awn al-Ma'ūd*, III, 210).

2692. The Jews used to make the graves of their Prophets the direction of prayer and built structures on them. The Prophet (may peace be upon him) prohibited Muslims from praying in the direction of the graves and building any structure on them.

2693. This tradition indicates that it is forbidden to sit on a grave.

2694. If a man prays facing a grave, it seems as if he is worshipping the grave itself. So the Prophet (may peace be upon him) forbade to do that.

2695. This refers to the advent of Islam. He meant that these unbelievers could not get the time of the Prophet (may peace be upon him) which was full of good and virtue.



take off thy shoes. So the man looked (about). When he recognised the Apostle of Allah (may peace be upon him), he took them off and threw them away.<sup>2696</sup>

(3225) Anas reported the Prophet (may peace be upon him) as saying: When a servant (of Allah) is placed in his grave, and his Companions depart from him, he hears the stepping sound of their shoes.<sup>2697</sup>

### *Chapter 1208*

#### REMOVING THE DEAD FROM HIS PLACE OF BURIAL FOR SOME HAPPENING

(3226) Jābir said: A man was buried with my father. I had a desire at heart for that (place for my burial). So I took him out after six months. I did not find any change (in his body) except a few hair that touched the earth.<sup>2698</sup>

### *Chapter 1209*

#### PRAISING THE DEAD

(3227) Abū Hurairah said: People with a bier passed by the Apostle of Allah (may peace be upon him). They spoke highly of him. He said: Paradise is certain for him. Then some people with another (bier) passed by him. They spoke very badly of him. He said: Hell is certain for him. He then said: Some of you are witness to others.<sup>2699</sup>

2696. This tradition shows that it is not permissible to pass the grave wearing the shoes. Some scholars are of opinion that he ordered the man to take off the shoes for they were smeared with some impurity. There is no harm to walk in shoes between the graves in case the shoes are pure. A group of scholars maintains that it is better to take off the shoes as a respect to the graves.

2697. This implies that one can walk wearing the shoes between graves. Some scholars are of view that shoes should not be put on while walking through the graves. This is meant to show respect to graves. Sometimes a man feels proud by wearing skin shoes. Therefore, one should not wear shoes when one visits graves.

2698. This allows the transfer of the dead body from one place to another after its burial. But this is allowed if there is some need for it, and the body is in sound condition

2699. Their praise shows that the actions of the dead were good. Hence Paradise was certain for him. Likewise, their speaking ill of him shows that his actions were bad. So Hell was certain for him. In this sense people are witness to one another.

### Chapter 1210

#### VISITING GRAVES

(3228) Abū Hurairah said: The Apostle of Allah (may peace be upon him) visited his mother's grave and wept and caused those around him to weep. The Apostle of Allah (may peace be upon him) then said: I asked my Lord's permission to pray for forgiveness for her, but I was not allowed. I then asked His permission to visit her grave, and I was allowed. So visit graves,<sup>2700</sup> for they make one mindful of death.

(3229) Buraidah reported the Apostle of Allah (may peace be upon him) as saying: I forbade you to visit graves, but you may now visit them, for in visiting them there is a reminder (of death).

### Chapter 1211

#### WOMEN VISITING GRAVES

(3230) Ibn 'Abbās said that the Apostle of Allah (may peace be upon him) cursed women who visited graves,<sup>2701</sup> built mosques over them and erected lamps (there).<sup>2702</sup>

### Chapter 1212

#### WHEN A MAN VISITS GRAVES OR PASSES BY THEM, WHAT SHOULD HE SAY?

(3231) Abū Hurairah said: The Apostle of Allah (may peace be upon him) went

2700. This imperative is meant for permission or recommendation for visiting graves. The permission obviously applies both to men and to women. But some scholars are of opinion it is disapproved for women to visit graves; others allow them. It seems that the permission for women is conditional. They are generally weak-hearted. On visiting graveyard if they do not weep and wail over the dead and have control over themselves, they are allowed to visit graves. But if they cannot control themselves, they are not allowed to visit (*Awn al-Ma'būd* III, 212).

2701. Al-Tirmidhī says that this is a *ḥasan ṣaḥīḥ* (good sound) tradition. He transmitted it on the authority of Abū Hurairah. He adds that some scholars consider this was before the Prophet (may peace be upon him) gave licence to visit graves, but when he gave it, both men and women were included. But some maintain that he disapproved of women visiting graves because of the small amount of self-control and their tendency to be greatly upset.

2702. This tradition clearly forbids holding meetings to celebrate the death anniversaries of the dead with pomp and show. The Prophet (may peace be upon him) also prohibited to say prayer facing a grave and erect lights there. Holding annual fairs at graves is also forbidden.

out to the graveyard and said : Peace be upon you, inhabitants of the dwellings who are of the community of the believers. If Allah wills we shall join you.<sup>2703</sup>

### Chapter 1213

#### WHEN A MAN WEARING *IHRĀM* DIES, WHAT SHOULD BE DONE WITH HIM ?

(3232) Ibn 'Abbās said : To the Apostle of Allah (may peace be upon him) was brought a man wearing *ihrām* who was thrown by his she-camel and had his neck broken and had died. He then said : Shroud him in his two garments, wash him with water and lotus leaves, but do not cover his head, for he will be raised on the Day of Resurrection<sup>2704</sup> saying the *talbiyah*.<sup>2705</sup>

Abū Dāwūd said : I heard Aḥmad b. Ḥanbal say : There are five rules of law (*sunan*) in this tradition : "Shroud him in his two garments," that is, the dead should be shrouded in his two garments. "Wash him with water and lotus leaves," that is, washing all times should be with lotus leaves. Do not bring any perfume near him. The shroud will be made from the property (of the dead).

(3233) A similar tradition has also been narrated by Ibn 'Abbās through a different chain of narrators. This version has : "Shroud him in two garments."

Abū Dāwūd said : The narrator Sulaimān said that Ayyūb said : "his two garments," 'Amr said : "two garments," Ibn 'Ubaid said that Ayyūb said : "in two garments" and 'Amr said : "in his two garments." Sulaimān alone added : "do not put any perfume on him."

(3234) A similar tradition has also been narrated by Ibn 'Abbās through a different chain of transmitters to the effect as narrated by Sulaimān saying : "in two garments."

(3235) Ibn 'Abbās said : A man wearing *ihrām* was thrown by his she-camel and had his neck broken and he died. He was brought to the Apostle of Allah (may peace be upon him), and he said : Wash him and shroud him, but do not cover his head and do not put any perfume on him, for he will be raised on the Day of Resurrection saying the *talbiyah*.

2703. This shows that it is commendable to recite this supplication when one visits a graveyard.

2704. This shows that if a man wearing *ihrām* dies, he should be washed, shrouded in his garments, but his head should not be covered, nor should any perfume be put on him.

2705. The cry of pilgrims : "At Thy service (*labbaikā*), O Allah, at Thy service ; at Thy service. Thou hast no partner; at Thy service, praise and grace are Thine, and the dominion ; Thou hast no partner."

## XV. KITĀB AL-AIMĀN WA AL-NUDHŪR

[ BOOK OF OATHS AND VOWS ]

### *Chapter 1214*

#### GRAVITY OF THE SIN OF SWEARING FALSE OATHS

(3236) 'Imrān b. Ḥuṣain reported the Prophet (may peace be upon him) as saying : If anyone swears a false oath in confinement, he should make his seat in Hell on account of this (act). <sup>2706</sup>

### *Chapter 1215*

#### ON A MAN WHO SWEARS AN OATH TO USURP PROPERTY OF ANOTHER MAN

(3237) 'Abd Allah (b. Mas'ūd) reported the Apostle of Allah (may peace be upon him) as saying : He who swears an oath and he is a liar in it to take the property of a Muslim by unfair means will meet Allah while He is angry with him. Al-Ash'ath said : I swear by Allah, this he said about me. There was a land between me and a Jew, but he denied it to me ; so I presented him to the Prophet (may peace be upon him). The Prophet (may peace be upon him) asked me : Have you any evidence ? I replied : No. He said to the Jew : Take an oath. I said : Apostle of Allah, now he will take an oath and take my property. So Allah, the Exalted, revealed the verse, <sup>2707</sup> "As for those who sell the faith they owe to Allah and their own plighted word for a small price, they shall have no portion in the Hereafter." <sup>2708</sup>

(3238) Al-Ash'ath b. Qais said : A man of Kindah and a man of Ḥaḍramawt

<sup>2706</sup>. This refers to a man who takes an oath binding on himself by the order of a ruler, but he has no intention to fulfil it. If a man is confined and the ruler forces him to take an oath, he should not take it falsely. In case he takes an oath, he should fulfil it. It is a grave sin to swear a false oath.

<sup>2707</sup>. Qur'ān, iii. 77.

<sup>2708</sup>. This shows that it is a great sin to swear a false oath, but there is no atonement for such an oath. It may be noted that if the plaintiff has no proof, the defendant will be asked to take an oath. But he should not take a false oath.

brought their dispute to the Prophet (may peace be upon him) about a land in the Yemen. Al-Ḥaḍramī said : Apostle of Allah, the father of this (man) usurped my land and it is in his possession. He asked : Have you any evidence ? He replied : No, but I make him swear (that he should say) that he does not know that it is my land which his father usurped from me. Al-Kindī became ready to take the oath. The Apostle of Allah (may peace be upon him) said : If anyone usurps the property by taking an oath, he will meet Allah while his hand is mutilated. Al-Kindī then said : It is his land.<sup>2709</sup>

(3239) 'Alqamah b. Wā'il b. Ḥujr al-Ḥaḍramī reported on the authority of his father : A man of Ḥaḍramawt and a man of Kindah came to the Apostle of Allah (may peace be upon him). Al-Ḥaḍramī said : Apostle of Allah, this (man) took away forcibly from me the land which belonged to my father. Al-Kindī said : It is my land in my possession, and I cultivate it ; he has no right to it. The Prophet (may peace be upon him) then said to al-Ḥaḍramī : Have you any proof ? He said : No. He then said : So for you is his oath. He said : Apostle of Allah, he is a liar, he does not care for which he is taking the oath. He does not restrain himself from anything. The Prophet (may peace be upon him) said : You will have nothing from him except that. He went to take an oath for him. When he turned his back, the Apostle of Allah (may peace be upon him) said : If he takes an oath on the property to take it away by unfair means, he will meet Allah while He is unmindful of him.

### Chapter 1216

#### GRAVITY OF SIN IF A MAN TAKES AN OATH AT THE PULPIT OF THE PROPHET (MAY PEACE BE UPON HIM)

(3240) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying : One should not take a false oath at this pulpit of mine even on a green tooth-stick ; otherwise he will make his abode in Hell, or Hell will be certain for him.<sup>2710</sup>

### Chapter 1217

#### SWEARING OATH BY THINGS OTHER THAN ALLAH

(3241) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as

<sup>2709</sup>. The man of Kindah was going to take a false oath. But when he knew the punishment of usurpation, he desisted.

<sup>2710</sup>. Taking a false oath is a grave sin. But it is more grave and serious if one takes it in a sacred month or at a sacred place.



saying : If anyone swears an oath in the course of which he says : "By al-Lat," he should say : There is no god but Allah, and that if anyone says to his friend : Come and let me play for money with you, he should give something in charity (*sadaqah*).<sup>2711</sup>

### Chapter 1218

#### DISAPPROVAL OF SWEARING BY FATHERS

(3242) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Do not swear by your fathers, or by your mothers, or by rivals<sup>2711</sup> to Allah ; and swear by Allah only, and swear by Allah only when you are speaking the truth.<sup>2713</sup>

(3243) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) found 'Umar b. al-Khaṭṭāb in a caravan while he was swearing by his father. So he said : Allah forbids you to swear by four fathers. If anyone swears, he must swear by Allah or keep silence.

(3244) The tradition mentioned above has also been transmitted by Ibn 'Umar through a different chain of narrators to the same effect up to the words "by your fathers". This version adds : " 'Umar said : I swear by Allah, I never swore by it personally or reporting it from others."

(3245) Sa'id b. 'Ubaidah said : Ibn 'Umar heard a man swearing : No, I swear by the Ka'bah. Ibn 'Umar said to him : I heard the Apostle of Allah (may peace be upon him) say : He who swears by anyone but Allah is a polytheist.<sup>2714</sup>

(3246) Referring to the story of a bedouin, Ṭalḥah b. 'Ubaid Allah reported the Prophet (may peace be upon him) as saying : He became successful, by his father, if he speaks the truth : he will enter Paradise, by his father, if he speaks the truth.<sup>2715</sup>

2711. This is an atonement for the sin he has committed. If a Muslim swears by an idol, he should utter *kalimah* (i.e. the credo of Islam) to renew his faith. Likewise, a Muslim is not expected to involve himself in gambling. If he does so, he should give something in charity.

2712. The reference is to idols, or false gods.

2713. It is not permissible to take an oath by anyone except by Allah. If anyone does so, he should repent and pray to Allah for forgiveness.

2714. This shows the gravity of the sin of swearing by anyone other than Allah. Once should, therefore, repent and beg forgiveness of Allah.

2715. A bedouin embraced Islam and he promised to abide by the injunctions of Islam. The Prophet (may peace be upon him) said these words to him and he swore by his father in the course of his address to him. Explaining this tradition the commentators observe that the Prophet (may peace be upon him) uttered these words before he forbade to swear by fathers. It has been repeated by traditions which prohibit taking such oaths.

## Chapter 1219

## DISAPPROVAL OF SWEARING BY FAITHFULNESS

(3247) Buraidah reported the Apostle of Allah (may peace be upon him) as saying : He who swears by faithfulness<sup>2716</sup> is not one of our number.

## Chapter 1220

## FUTILE OATH

(3248) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying about the futile oath : It is man's speech in his house : No, by Allah, and Yes, by Allah.<sup>2717</sup>

Abū Dāwūd said : Ibrāhīm al-Sā'igh, the narrator of this tradition, was a pious man. Abū Muslim killed him at 'Arandas. When he raised a hammer and heard the call to prayer, he gave it up.

Abū Dāwūd said : This tradition has been transmitted by Dāwūd b. Abī al-Furāt from Ibrāhīm al-Sā'igh as a statement of 'Ā'ishah (not attributed to the Prophet). Similarly, it has been transmitted by al-Zuhri ; 'Ahd al-Malik b. Abī Sulaimān and Mālik b. Mughūl. All of them transmitted it from 'Aṭā' on the authority of 'Ā'ishah as her own statement.<sup>2718</sup>

## Chapter 1221

## ALLUSIONS IN OATHS

(3249) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Your oath should be about something regarding which your companion will believe you.<sup>2719</sup>

2716. *Amānah* (faithfulness). The objection is due to the fact that *amānah* is not one of Allah's attributes ; it is only a duty prescribed for mankind. One is allowed to swear by Allah or His attributes.

2717. This refers to the verse which says : "Allah will not take you to account for what is futile in your oaths" (Qur'ān, ii. 225 ; v. 89). It may be noted that oaths used frequently by people as expletives to fill out the sentence are not binding. Allah will not take to account for such oaths.

2718. Abū Dāwūd means to say that this tradition has been transmitted as a saying of the Prophet (may peace be upon him) by some narrators, and as a saying of 'Ā'ishah by others. According to some, it is a *mauqūf* tradition.

2719. If a man makes another man swear an oath in a legal case, the intention of the man who makes him swear will be taken into consideration. His oath will be effective. The allusive words used by the man who takes an oath to escape from the oath will be neglected. But in case there is

Musaddad said : 'Abd Allah b. Abī Šālih narrated to me.

Abū Dāwūd said : Both of them refer to the same person : 'Abbād b. Abī Šālih and 'Abd Allah b. Abī Šālih.

(3250) Suwaid b. Ḥanzalah said : We went out intending (to visit) the Apostle of Allah (may peace be upon him) and Wā'il b. Ḥujr was with us. His enemy caught him. The people desisted from swearing an oath, but I took an oath that he was my brother. So he left him. We then came to the Apostle of Allah (may peace be upon him), and I informed him that the people desisted from taking the oath, but I swore that he was my brother. He said : You spoke the truth : A Muslim is a brother of a Muslim.<sup>2720</sup>

### Chapter 1222

#### SWEARING BY FREEING ONESELF FROM ISLAM AND BY A RELIGION OTHER THAN ISLAM FALSELY

(3251) Thābit b. al-Ḍaḥḥāk said that he took the oath of allegiance to the Apostle of Allah (may peace be upon him) under the tree.<sup>2721</sup> The Apostle of Allah (may peace be upon him) said : If anyone swears by religion other than Islam falsely, he is like what he has said.<sup>2722</sup> If anyone kills himself with something, he will be punished with it on the Day of Resurrection. A vow over which a man has no control is not binding on him.<sup>2723</sup>

(3252) Buraidah reported the Apostle of Allah (may peace be upon him) as saying : If anyone takes an oath and says : I am free from Islam : now if he is a liar (in his oath), he will not return to Islam with soundness.<sup>2724</sup>

no litigation, and one is not forced to take an oath, his allusion will be effective. For instance, if a man takes an oath using allusion in it to save his life, his allusion will be permissible.

2720. Sometimes a man uses a phrase and by it he means something else, but the people understand its apparent meaning. To save the life of Wā'il b. Ḥujr his companion Suwaid took an oath that he was his brother. The enemy thought that he was his real brother, though he meant that he was his brother in faith.

2721. This alludes to *Bai'at al-Ridwān* which took place on the occasion of the treaty of al-Ḥudaybiyyah.

2722. For example, he says : By Allah if I do this work, I am a Jew. This refers to any religion other than Islam. Al-Qaṣṣālānī says that if he is convinced with the truth of Islam, and he is false in his oath, he will not be an infidel. But in case he believes that he is true in his oath and takes the religion by which he swears as true, he will be an infidel. Opinions, however, differ about the meaning. Some say it means he is a liar, others that he is an infidel (*'Awn al-Ma'būd*, III, 219).

2723. A man takes a vow that he will emancipate a slave of another man. This is not binding on him, for he is not the master of that slave.

2724. If a man swears that if he does a certain work, he will be an infidel. He then does that work. Ibn 'Abbās, Abū Hurairah, 'Aṭā', Qatādah and most of scholars hold that he is not required

### Chapter 1223

#### SWEARING BY A MAN THAT HE WILL NOT EAT *IDĀM*—CONDIMENTS (ANYTHING EATEN WITH BREAD)

(3253) Yūsuf b. 'Abd Allah b. Salām said : I saw that the Prophet (may peace be upon him) put a date on a loaf and said : This is a thing eaten with bread (condiments).<sup>2725</sup>

(3254) A similar tradition has also been transmitted by Yūsuf b. 'Abd Allah b. Salām through a different chain of narrators.

### Chapter 1224

#### SAYING THE WORDS "IF ALLAH WILLS" WHILE SWEARING AN OATH

(3255) Ibn 'Umar reported the Prophet (may peace be upon him) as saying : If anyone says when swearing an oath : "If Allah wills," he makes an exception.<sup>2726</sup>

(3256) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying : If anyone swears an oath and makes an exception, he may fulfil it if he wishes and break it if he wishes without any accountability for breaking.

### Chapter 1225

#### HOW THE PROPHET (MAY PEACE BE UPON HIM) TOOK AN OATH

(3257) Ibn 'Umar said : The oath which the Apostle of Allah (may peace be upon him) often used was this : No, by Him Who overturns the hearts.

to make any atonement nor will he be an infidel, except that he actually believes so in his heart. But it is a sin to take such an oath. Al-Auzā'i, al-Thawrī, Abū Ḥanīfah, Aḥmad b. Ḥanbal, and Ishāq are of opinion that it is violation of an oath and he should make atonement as established by the *Shari'ah*. If a man swears that if he does a certain work, he is free from Islam. But he does not do that work, he is true in his oath (*'Awn al-Ma'būd*, III, 220).

2725. *Idām* means anything eaten with bread. The Arabs used to eat dates with bread. Things used as *idām* differ from country to country. If a man takes an oath that he will not eat *idām* with bread, he will violate his oath if he uses anything which is generally used as *idām* in his country. In Arabia if a man swears that if he will not eat *idām*, but he eats dates with bread, he will violate his vow. Abū Ḥanīfah and Abū Yūsuf hold that *idām* applies to everything which is imbued or dressed on the bread like olive oil, honey, salt and vinegar, but the things which are not used as dressing are not called *idām*. They are, for example : roast meat, cheese and eggs. But Mālik, al-Shāfi'i, Muḥammad b. al-Ḥasan and Aḥmad b. Ḥanbal hold that these things are included in *idām* (*'Awn al-Ma'būd*, III, 220).

2726. If a man says "if Allah wills" when swearing an oath without any break, he will not be held accountable if he breaks the oath.

(3358) Abū Sa'īd al-Khudrī said : When the Apostle of Allah (may peace be upon him) swore an oath strongly, he said : No, by Him in Whose hand is the soul of Abū al-Qāsim.

(3259) Abū Hurairah said : When the Apostle of Allah (may peace be upon him) swore an oath, it was : No, and I beg forgiveness of Allah.

(3260) Laqlq̃ b. 'Āmir said : We came to the Apostle of Allah (may peace be upon him). He then mentioned the tradition which says : The Prophet (may peace be upon him) then said : By the age of thy god.<sup>2727</sup>

### Chapter 1226

#### IS IT PERMISSIBLE TO USE THE WORD *QASAM* IN TAKING AN OATH ?

(3261) Ibn 'Abbās said : Abū Bakr adjured the Prophet (may peace be upon him). The Prophet (may peace be upon him) said : Do not adjure an oath.<sup>2728</sup>

(3262) Ibn 'Abbās said : Abū Hurairah narrated that a man came to the Apostle of Allah (may peace be upon him) and said : I had a dream last night, and he then mentioned it. So Abū Bakr interpreted it. The Prophet (may peace be upon him) said : You are partly right and partly wrong. He then said : I adjure you, Apostle of Allah, may my father be sacrificed on you, do tell me the mistake I have committed. The Prophet (may peace be upon him) said : Do not adjure.<sup>2729</sup>

(3263) The tradition mentioned above has also been transmitted by Ibn 'Abbās through a different chain of narrators. In this version there is no mention of the word

2727. By these words the Prophet (may peace be upon him) meant the eternity of Allah. In other words, he swore : I swear by the eternity of Allah. As eternity is the attribute of Allah, one is allowed to take an oath in these words.

2728. This is a part of the tradition which follows. Abū Bakr used the word *qasam* in his oath and the Prophet (may peace be upon him) forbade him to take an oath. This shows that if a man takes an oath by using the word *qasam*, the oath is valid and binding on him. There is a difference of opinion amongst scholars about the validity of the oath by using the word *qasam*. If a man uses the word *qasam* and says : "I swear by Allah" or "I swear," this type of oath is valid, even if he does not so intend. This is held by Ibn 'Umar, Ibn 'Abbās Ibrāhīm al-Nakha'ī, al-Thawrī and the Hanafīs. But the majority of scholars maintain that it is valid if he intends to take an oath by using the word *qasam*. Mālik observes that if he uses the word *qasam*, and says : "I swear by Allah," it is a valid oath. But if he says : "I swear," it is not valid, except that he intends an oath by this word. Al-Shāfi'ī says that if he says : "I swear," it will not be counted as an oath even if he intends. But if he says : "I swear by Allah," it is a valid oath, provided he intends an oath by this word (*ʿAwn al-Ma'būd*, III, 224).

2729. The Prophet (may peace be upon him) generally asked the people to fulfil their oaths. But he himself did not fulfil the oath in this case. There might be some expediency in concealing the correct interpretation of the dream. Hence he did not explain it.



*qasam* (oath). It has the words: "He did not inform him."

### Chapter 1227

#### ON A MAN WHO SWEARS THAT HE WILL NOT TAKE FOOD

(3264) 'Abd al-Rahmān b. Abī Bakr said : Some guests visited us, and Abū Bakr was conversing with the Apostle of Allah (may peace be upon him) at night. He (Abū Bakr) said : I will not return to you until you are free from their entertainment and serving them food. So he brought them food, but they said : We shall not eat it until Abū Bakr comes (back). Abū Bakr then came and asked : What did your guests do ? Are you free from their entertainment ? They said : No. I said : I brought them food, but they refused and said : We swear by Allah, we shall not take it until he comes. They said : He spoke the truth. He brought it to us, but we refused (to take it) until you come. He asked : What did prevent you ? He said : I swear by Allah, I shall not take food tonight. They said : And we also swear by Allah that we shall not take food until you take it. He said : I never saw an evil like the one tonight. He said : Bring your food near (you). He ('Abd al-Rahmān) said : Their food was then brought near them. He said : In the name of Allah, and he took the food, and they also took it. I then informed him that the dawn had broken. So he went to the Prophet (may peace be upon him) and informed him of what he and they had done. He said : You are most obedient and most truthful of them.<sup>2730</sup>

(3265) A similar tradition has also been transmitted by 'Abd al-Rahmān b. Abī Bakr through a different chain of narrators. This version adds on the authority of Sālim : "Expiation (for breaking the oath) has not reached me."<sup>271</sup>

### Chapter 1228

#### SWEARING ABOUT BREAKING TIES OF RELATIONSHIP

(3266) Sa'īd b. al-Musayyab said : There were two brothers among the *Anṣār* who shared an inheritance. When one of them asked the other for the portion due to him, he replied : If you ask me again for the portion due to you, all my property will be

2730. Muslim in his *Ṣaḥīḥ* records that Abū Bakr said to the Prophet (may peace be upon him): They fulfilled their oath and I broke it. To this he replied that he was more obedient and more truthful than his guests. The reason is that entertainment of the guests and taking food with them was more important than fulfilling the oath. The Prophet (may peace be upon him) in a number of traditions exhorted Muslims to entertain guests. Therefore, Abū Bakr displayed his obedience by breaking his oath. He might have made atonement for it later on.

2731. Although there is no report about making atonement, he might have done so for breaking his oath.

devoted to the decoration of the Ka'bah. 'Umar said to him : The Ka'bah does not need your property. Make atonement for your oath and speak to your brother. I heard the Apostle of Allah (may peace be upon him) say : An oath or vow to disobey the Lord, or to break ties of relationship or about something over which one has no control is not binding on you.<sup>2732</sup>

(3267) 'Amr b. Shu'aib on his father's authority said that his grandfather reported the Apostle of Allah (may peace be upon him) as saying : A vow is binding in those things by which the pleasure of Allah is sought, and an oath to break ties of relationship is not binding.

(3268) 'Amr b. Shu'aib on his father's authority said that his grandfather reported the Apostle of Allah (may peace be upon him) as saying : An oath or a vow about something over which a human being has no control, and to disobey Allah, and to break ties of relationship is not binding. If anyone takes an oath and then considers something else better than it, he should give it up, and do what is better, for leaving it is its atonement.<sup>2733</sup>

Abū Dāwūd said : All sound traditions from the Prophet (may peace be upon him) say : "He should make atonement for his oath," except those versions which are not reliable.

Abū Dāwūd said : I said to Aḥmad : Yaḥyā b. Sa'īd (al-Qaṭṭān) has transmitted this tradition from Yaḥyā b. 'Ubaid Allah. He (Aḥmad b. Ḥanbal) said : But he gave it up after that, and he was competent for doing it. Aḥmad said : His (Yaḥyā b. 'Ubaid Allah's) traditions are *munkar* (rejected) and his father is not known.

## Chapter 1229

### SWEARING A FALSE OATH INTENTIONALLY

(3269) Ibn 'Abbās said : Two men brought their dispute to the Prophet (may peace be upon him). The Prophet (may peace be upon him) asked the plaintiff to produce evidence, but he had no evidence. So he asked the defendant to swear. He swore by Allah "There is no god but He." The Apostle of Allah (may peace be upon him)

<sup>2732</sup>. The oath about these things is not binding. If a man takes such an oath, he should atone for it.

<sup>2733</sup>. This tradition narrated by 'Amr b. Shu'aib is weak and not reliable. It contradicts all sound traditions which indicate that one should make atonement for breaking one's oath. For the sake of harmonising it with other traditions we may say that it means that leaving it causes atonement ; it does not mean that breaking the oath is its atonement. Other authentic traditions indicate that if anyone swears an oath and considers something else to be better than it, he should make atonement for his oath and do that (*'Awn al-Ma'būd*, III, 244).

said : Yes, you have done it, but you have been forgiven for the sincerity of the statement : "There is no god but Allah."<sup>2734</sup>

Abū Dāwūd said : This tradition means that he did not command him to make atonement.

### Chapter 1230

#### MAKING ATONEMENT BY A PERSON BREAKING HIS OATH

(3270) Abū Burdah reported on the authority of his father that the Prophet (may peace be upon him) said : I swear by Allah that if Allah wills I shall not swear an oath and then consider something else to be better than it without making atonement for my oath and doing the thing that is better.<sup>2735</sup> Or he said (according to another version) : But doing the thing that is better and making atonement for my oath.

(3271) 'Abd al-Raḥmān b. Samurah said : The Prophet (may peace be upon him) said to me : 'Abd al-Raḥmān b. Samurah, when you swear an oath and consider something else to be better than it, do the thing that is better and make atonement for your oath.

Abū Dāwūd said : I heard Aḥmad (b. Ḥanbal) permitting to make atonement before breaking the oath.

(3272) A similar tradition has been transmitted by 'Abd al-Raḥmān b. Samurah through a different chain of narrators. This version has : "Make atonement for your oath and then do the thing that is better."

Abū Dāwūd said : The versions of this tradition transmitted by Abū Mūsā al-Ash'arī, 'Adī b. Ḥātim and Abū Hurairah are variant. Some of them indicate breaking the oath before making atonement, and others making atonement before breaking the oath.

2734. The other versions of this indicate that the man took a false oath. He was a liar. The Prophet (may peace be upon him) asked him to return the property of the plaintiff. But he did not order him to make atonement as he uttered, "There is no god but Allah." This sort of oath is called *yamin ghumūs* (false oath). It means to swear by Allah to usurp the property of another Muslim. In case of such an oath one should beg pardon of Allah. No atonement is binding on him.

2735. This and the following traditions indicate that it is permissible to make atonement before breaking the oath. This is widely held by scholars. Ibn 'Umar, Ibn 'Abbās, 'Ā'ishah, al-Ḥasan al-Baṣrī, Ibn Sīrīn, Mālik, al-Auzā'i, al-Shāfi'i, Aḥmad b. Ḥanbal and Ishāq b. Rāhwaiḥ hold this view. Al-Shāfi'i says that if a man makes atonement by fasting before breaking his oath, it is not valid. If he makes atonement by feeding the poor, it is valid. Abū Ḥanīfah holds that it is not valid to make atonement before breaking the oath (*Awn al-Ma'būd*, III, 223-24).

*Chapter 1231***CAPACITY OF A ŠĀ' VALID FOR MAKING ATONEMENT**

(3273) Ibn Ḥarmalah said : Umm Ḥabīb gave us a šā', and told us from the nephew of Šaḥīyyah on the authority of Šaḥīyyah that it was the šā' of the Prophet (may peace be upon him). Anas b. 'Ayyād said : I tested it and found its capacity two and a half mudd according to the mudd of Hishām.<sup>2736</sup>

(3274) Muḥammad b. Muḥammad b. Khaṭṭāb Abū 'Umar said : We had a makkūk<sup>2737</sup> which was called Makkūk Khālid. Its capacity was two measurements according to the measurements of Hārūn. The narrator Muḥammad said : The šā' of Khālid was the šā' of Hishām b. 'Abd al-Malik.

(3275) Umayyah b. Khālid said : When Khālid al-Qaṣrī was made ruler (of Ḥijāz and Kūfah), he doubled the measure of šā'. The šā' then measured sixteen rotls.<sup>2738</sup>

Abū Dāwūd said : Muḥammad b. Muḥammad b. Khaṭṭāb was slain by Negroes in confinement. He said while signing with his hand : "in this way"; Abū Dāwūd extended his hand and turned his palms towards the earth and said : I saw him in the dream and asked him : How did Allah deal with you ? He replied : He admitted me to Paradise. I said : Your detention did not harm you.

*Chapter 1232***A BELIEVER SLAVE TO BE FREED AS ATONEMENT**

(3276) Mu'āwiyah b. al-Ḥakam al-Sulamī said : I said : Apostle of Allah, I have a slave-girl whom I slapped. This grieved the Apostle of Allah (may peace be upon him). I said to him : Should I not emancipate her ? He said : Bring her to me. He said : Then I brought her. He asked : Where is Allah ? She replied : In the heaven. He asked : Who am I ? She replied : You are the Apostle of Allah. He said : Emancipate her, she is a believer.<sup>2739</sup>

2736. Mudd and šā' are standard units of measurement used in the time of the Prophet (may peace be upon him). A mudd measures two rotls (raṭl) and the šā' of Ḥijāz measures five rotls. The Ḥijāzī šā' is a standard measurement widely used for making atonements. The 'Irāqī šā' measures eight rotls. The Ḥanafīs use this šā' for making atonements.

2737. Makkūk is a unit of measurement. Some say it is mudd and others take it as šā'. But more probably it is mudd. Its measure varies from country to country.

2738. This cannot be taken as an authoritative measurement. The standard one is the Ḥijāzī šā' which measures five rotls.

2739. It is disputed whether a believing slave or a non-believing slave should be emancipated as an atonement. Mālik, al-Auzā'ī and Ibn 'Ubaid hold that emancipation of a believing slave is necessary for atonement. If a man emancipates a non-believing slave as an atonement, the atone-

(3277) Al-Sharīd said that his mother left a will to emancipate a believing slave on her behalf. So he came to the Prophet (may peace be upon him) and said : Apostle of Allah, my mother left a will that I should emancipate a believing slave for her, and I have a black Nubian slave-girl. He mentioned a similar tradition.

Abū Dāwūd said : Khālid b. 'Abd Allah narrated this tradition direct from the Prophet (may peace be upon him). He did not mention the name of al-Sharīd.

(3278) Abū Hurairah said : A man brought the Prophet (may peace be upon him) a black slave-girl. He said : Apostle of Allah, emancipation of a believing slave is due to me. He asked her : Where is Allah ? She pointed to the heaven with her finger. He then asked her : Who am I ? She pointed to the Prophet (may peace be upon him) and to the heaven, that is to say : You are the Apostle of Allah. He then said : Set her free, she is a believer.

### Chapter 1233

#### TO SAY "IF ALLAH WILLS" WHILE SWEARING AFTER KEEPING SILENCE

(3279) 'Ikrimah reported the Apostle of Allah (may peace be upon him) as saying : I swear by Allah, I shall fight against the Quraish ; I swear by Allah, I shall fight against the Quraish ; I swear by Allah, I shall fight against the Quraish. He then said : "If Allah wills."<sup>2740</sup>

Abū Dāwūd said : A number of persons have narrated this tradition from Sharīk, from Simāk, from 'Ikrimah, from Ibn 'Abbās who reported from the Prophet (may peace be upon him) : "But he did not fight against them."

(3280) 'Ikrimah reported the Prophet (may peace be upon him) as saying : I swear by Allah, I shall fight against the Quraish. He then said : If Allah wills. He

ment is not valid. Abū Ḥanīfah maintains that the atonement is valid if one emancipates a non-believing slave, except the atonement for murder. 'Aṭā' is also reported to have held this view. (*Aun al-Ma'būd*, III, 227).

2740. If a man says : "if Allah wills" when he swears without any break or pause, the oath is not binding on him according to a number of traditions. After swearing one should not keep silence. This view is held by the majority of scholars. But if a man keeps silence or gives a break after swearing and then says "if Allah wills," the oath will be binding on him. The exception will not be valid. Following this tradition Ibn 'Abbās maintains that one may withdraw one's oath any time after swearing. Ṭāwūs, al-Ḥasan and a group of successors maintain that he is allowed to say "if Allah wills" until he leaves the meeting. Qatādah holds that he can make an exception until he departs from the meeting or speaks. 'Aṭā' is of view that he can make an exception during the period a she-camel is milked. Sa'īd b. Jubair holds that one can say "if Allah wills" after four months and the oath will not be binding (*Aun al-Ma'būd*, III, 245).



again said: I swear by Allah, I shall fight against the Quraish if Allah wills. He again said: I swear by Allah, I shall fight against the Quraish. He then kept silence. Then he said: If Allah wills.

Abū Dāwūd said: Al-Walīd b. Muslim said on the authority of Sharīk: He then said: But he did not fight against them.

### Chapter 1234

#### DISAPPROVAL OF MAKING A VOW

(3281) 'Abd Allah b. 'Umar said: The Apostle of Allah (may peace be upon him) forbade to make a vow.<sup>2741</sup> He said: It has no effect against fate; it is only from the miserly that it is a means by which something is extracted.<sup>2742</sup>

Musaddad said: The Apostle of Allah (may peace be upon him) said: A vow does not avert anything (i.e. has no effect against fate).

(3282) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: A vow does not provide for the son of Adam anything which <sup>12743</sup> did not decree for him, but a vow draws it. A Divine decree is one which I have destined; it is extracted from a miser. He is given what he was not given before.<sup>2744</sup>

2741. The Prophet (may peace be upon him) forbade to take a vow to show its significance and to prevent people from taking it after it becomes binding on them. Sometimes it is difficult for a man to fulfil his vow after he takes it. Hence the Prophet (may peace be upon him) asked to be careful about it, and to avoid it as far as possible. It neither draws any benefit for them nor does it protect them from any harm. It has no effect against fate.

2742. This shows that a vow is valid if it is conditional. If a man says: I shall give one thousand dirhams in alms if I recover from my illness, his vow is valid. But if he says that he makes a vow to give one thousand dirhams in alms. This unconditional vow is not valid. This view is held by al-Shāfi'ī. Abū Ḥanīfah maintains that a vow whether conditional or absolute is valid, and binding on a man who makes it.

Al-'Ainī observes that some people are so miserly that they do not give their money in alms except out of temptation or fear. When a man makes a vow, he spends his money by force of the vow out of fear or temptation. This vow is a means to extract money from a miserly person; otherwise a vow cannot change the Divine decree (*'Awn al-Ma'būd*, III, 227).

2743. This is a *qudsī* tradition attributed to Allah. This means that Allah says that the fate has been destined by Him. A vow or anything else cannot be effective against His decree.

2744. Another version of this tradition recorded by Muslim says that the vow agrees with the fate. It means that a vow cannot change fate. If a man, for instance, vows that he will spend some money in alms if he succeeds in the examination; it does not mean that he will succeed by virtue of this vow. If it is decreed by Allah that he will succeed, he will surely succeed, whether he takes a vow or not. The use of vow is that a miserly person spends his money which he does not do without making a vow.

## Chapter 1235

## VOWING FOR SIN

(3283) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying : If anyone vows to obey Allah, let him obey Him, but if anyone vows to disobey Him, let him not disobey Him.<sup>2745</sup>

(3284) Ibn 'Abbās said : While the Prophet (may peace be upon him) was preaching a man was standing in the sun. He asked about him. They said : He is Abū Isrā'īl who has taken a vow to stand and not to sit, or go into the shade, or speak, but to fast. Thereupon he said : Command him to speak, to go into the shade, sit and complete his fast.<sup>2746</sup>

## Chapter 1236

THE VIEW THAT ATONEMENT IS NECESSARY  
IF A MAN VOWS TO DISOBEY ALLAH

(3285) 'Ā'ishah reported the Prophet (may peace be upon him) as saying : No vow must be taken to do an act of disobedience, and the atonement for it is the same as for an oath.<sup>2747</sup>

(3286) The tradition mentioned above has also been transmitted by al-Zuhrī through a different chain of narrators to the same effect.

Abū Dāwūd said : I heard Aḥmad b. Shabbūyah say : Ibn al-Mubārak said about this tradition that Abū Salamah had transmitted it. This indicates that al-Zuhrī did not hear it from Abū Salamah. Aḥmad b. Muḥammad said : This is verified by what Ayyūb b. Sulaimān narrated to us,

2745. If anyone vows to disobey Allah, it is not binding on him to fulfil this vow. Atonement is also not necessary. This is held by Mālik and al-Shāfi'. Abū Ḥanīfah and Sufyān al-Thawrī maintain that he should not fulfil this vow, but make atonement for it (*'Awn al-Ma'būd*, III, 228).

2746. This shows that it is not necessary to fulfil a vow which involves disobedience to Allah, and which causes harm to man, like standing in the sun, or travelling on foot. This tradition does not mention any atonement. Hence atonement is not binding according to Mālik and al-Shāfi'. The Prophet (may peace be upon him), allowed fasting as it was an act of worship. But he did not allow other things.

2747. This shows that if a man vows to disobey Allah, say to drink wine, his vow is not valid, nor is atonement binding on him. This is held by Mālik, al-Shāfi' and by majority of scholars. Aḥmad and Abū Ḥanīfah maintain that the vow is valid and the man should make atonement for breaking it. They argue on the basis of this tradition. After recording this tradition al-Tirmidhī says that it is not sound, for al-Zuhrī did not hear this tradition from Abū Salamah. Some scholars observe that al-Zuhrī heard this tradition from Sulaimān b. Arqam who is not reliable. His traditions are not acceptable (*'Awn al-Ma'būd*, III, 229).

Abū Dāwūd said : I heard Aḥmad b. Ḥanbal say : They have corrupted this tradition for us. He was asked : Do you think that it is correct that this tradition has been corrupted ? Has any person other than Ibn Abī Uwais transmitted it ? He replied : Ayyūb was similar to him in respect of reliability, and Ayyūb transmitted it.

(3287) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying : No vow must be taken to do an act of disobedience, and the atonement for it is the same as for an oath.

Aḥmad b. Muḥammad al-Marwazī said : The correct chain of this tradition is : 'Alī b. al-Mubārak, from Yaḥyā b. Abī Kathīr, from Muḥammad b. al-Zubair, from his father, on the authority of 'Imrān b. Ḥuṣain from the Prophet (may peace be upon him).

(Abū Dāwūd said :) By this he (al-Marwazī) means that the narrator Sulaimān b. Arqam had some misunderstanding about this tradition. Al-Zuhrī narrated it from him and then transmitted it (omitting his name)<sup>2748</sup> from Abū Salamah on the authority of 'Ā'ishah.

Abū Dāwūd said : Baqīyyah has transmitted it from al-Auzā'ī from Yaḥyā ; from Muḥammad b. al-Zubair with a similar chain of Ibn al-Mubārak.

(3288) 'Uqbah b. 'Āmir said that he consulted the Prophet (may peace be upon him) about his sister who took a vow to perform *Hajj* barefooted and bare-headed. So he said : Command her to cover her head and to ride, and to fast three days.<sup>2749</sup>

(3289) This tradition mentioned above has also been transmitted by Abū Sa'īd al-Ru'ainī with the same chain as narrated by Yaḥyā (b. Sa'īd) and to the same effect.

(3290) Ibn 'Abbās said : A man came to the Prophet (may peace be upon him) and said : Apostle of Allah, my sister has taken a vow to perform *Hajj* on foot. The Prophet (may peace be upon him) said : Allah gets no good from the affliction your sister imposed on herself, so let her perform *Hajj* riding and make atonement for her oath.

(3291) Ibn 'Abbās said that the sister of 'Uqbah b. 'Āmir took a vow to walk on

2748. Al-Zuhrī directly transmitted this tradition from Abū Salamah from 'Ā'ishah and omitted the connecting link of Sulaimān b. Arqam because he was a weak narrator. Sulaimān b. Arqam was mistaken in the chain of this tradition. Instead of transmitting it from Muḥammad b. al-Zubair, from his father, from 'Ā'ishah, he mentioned Abū Salamah from 'Ā'ishah. Al-Zuhrī transmitted it from Sulaimān.

2749. The Prophet commanded her to cover her head for it is included in her private parts. It is a sin to perform *Hajj* bareheaded by women. As she was unable to travel on foot, he ordered her to break the vow and fast for three days.

foot to the Ka'bah. Thereupon the Prophet (may peace be upon him) ordered her to ride and slaughter a sacrificial animal.<sup>2750</sup>

(3292) Ibn 'Abbās said that when the Prophet (may peace be upon him) was informed that the sister<sup>2751</sup> of 'Uqbah b. 'Āmir had taken a vow to perform *Hajj* on foot, he said : Allah is not in need of her vow. So ask her to ride.

Abū Dāwūd said : Sa'īd b. 'Arūbah has transmitted a similar tradition. Khālid has also transmitted a similar tradition on the authority of 'Ikrimah from the Prophet (may peace be upon him).

(3293) 'Ikrimah narrated the tradition about the sister of 'Uqbah b. 'Āmir as narrated by Hishām, but he made no mention of the sacrificial animal. In his version he said : Ask your sister to ride.

Abū Dāwūd said : Khālid narrated it from 'Ikrimah to the same effect as narrated by Hishām.

(3294) 'Uqbad b. 'Āmir al-Juhānī said : My sister took a vow to walk on foot to the House of Allah (i.e. the Ka'bah). She asked me to consult the Prophet (may peace be upon him) about her. So I consulted the Prophet (may peace be upon him). He said : Let her walk and ride.<sup>2752</sup>

(3295) Anas b. Mālik said : The Apostle of Allah (may peace be upon him) saw a man that he was supported between his sons. He asked about him, and (the people) said : He has taken a vow to walk (on foot).<sup>2753</sup> Thereupon he said : Allah has no need that this man should punish himself, and he ordered him to ride.

Abū Dāwūd said : 'Amr b. Abī 'Amr has also narrated a similar tradition from al-A'raj on the authority of Abū Hurairah from the Prophet (may peace be upon him).

(3296) Ibn 'Abbās said : The Prophet (may peace be upon him) while going round

2750. It is not an act of obedience to cover such a long distance on foot. Therefore, one should not fulfil this vow. Sacrificial animal is an atonement for the vow. If a man is able to walk he may fulfil his vow. The Prophet (may peace be upon him) ordered the sister of 'Uqbah b. 'Āmir to ride, as she was unable to walk on foot. It is disputed whether the presenting of sacrificial animal is necessary or not. According to al-Shāfi'ī, it is necessary, and according to others it is only commendable to offer sacrifice. As regards the animal, a goat is sufficient. 'Alī maintains that the sacrifice of a camel is necessary. Others hold that the sacrifice of a camel is recommended ('*Awn al-Ma'būd*, III, 231-32).

2751. Her name was Umm Hibbān daughter of 'Āmir.

2752. The Prophet (may peace be upon him) allowed her to walk so long as she could, and to ride when she could not do so. He permitted her to walk for she was able to walk. In another tradition narrated by Anas, the man who took a vow was not able to walk. Hence he (the Prophet) ordered him to ride and not to walk. It depends on one's strength to walk after taking a vow.

2753. He took a vow to walk to the Ka'bah.

the Ka'bah passed a man who was led<sup>2754</sup> with a ring of bridle in his nose. The Prophet (may peace be upon him) cut it off with his hand and ordered to lead him by catching his hand.

(3297) Ibn 'Abbās said : The sister of 'Uqbah b. 'Āmir took a vow that she would perform *Ḥajj* on foot, and she was unable to do so. The Prophet (may peace be upon him) said : Allah is not in need of the walking of your sister. She must ride and offer a sacrificial camel.

(3298) 'Uqbah b. 'Āmir al-Juhānī said to the Prophet (may peace be upon him) : My sister has taken a vow that she will walk to the House of Allah (the Ka'bah). Thereupon he said : Allah will not do anything of the walking of your sister to the House of Allah (i.e. the Ka'bah).

### Chapter 1237

#### ON A MAN WHO TAKES A VOW TO PRAY IN JERUSALEM

(3299) Jābir b. 'Abd Allah said : A man stood on the day of Conquest (of Mecca) and said : Apostle of Allah, I have vowed to Allah that if He grants conquest of Mecca at your hands, I shall pray two *rak'ahs* in Jerusalem. He replied : Pray here. He repeated (his statement) to him and he said : Pray here. He again repeated (his statement) to him and he said : He replied : Pursue your own course, then.<sup>2755</sup>

Abū Dāwūd said : A similar tradition has been narrated by 'Abd al-Raḥmān b. 'Awf from the Prophet (may peace be upon him).

(3300) The tradition mentioned above has also been transmitted by 'Umar b. 'Abd al-Raḥmān b. 'Awf on the authority of the Companions of the Prophet (may peace be upon him). This version has : "The Prophet (may peace be upon him) said : By Him Who sent Muḥammad with truth, if you prayed here, this would be sufficient for you like the prayer in Jerusalem."

Abū Dāwūd said : This tradition has also been transmitted by al-Anṣārī, from Ibn Juraij. He said : Ja'far b. 'Umar and 'Amr b. Ḥayyāh. He said : They transmitted from 'Abd al-Raḥmān b. 'Awf and from the Companions of the Prophet (may peace be upon him).

2754. Another version of this tradition as recorded in *Sunan al-Nasā'i* says that the man had taken a vow to go round the Ka'bah with a ring of a bridle in his nose. The Prophet (may peace be upon him) prohibited him as it was a sort of punishment which he had inflicted on him.

2755. The man who took the vow was at Mecca. He could get more reward for prayer in the Ka'bah than in Jerusalem. Therefore, the Prophet (may peace be upon him) asked him to fulfil his vow by praying in the Ka'bah. It was, therefore, not necessary to go to Jerusalem. But when he insisted he left the matter to his discretion.



## Chapter 1238

## FULFILLING A VOW ON BEHALF OF THE DEAD

(3301) Ibn 'Abbās said : Sa'd b. 'Ubadah asked the Apostle of Allah (may peace be upon him) : My mother has died and she could not fulfil her vow which she had taken. The Apostle of Allah (may peace be upon him) said : Fulfil it on her behalf.<sup>2756</sup>

(3302) Ibn 'Abbās said : A woman made a voyage and vowed that she would fast one month if Allah made her reach her destination with peace and security. Allah made her reach her destination with security but she died before she could fast. Her daughter or sister (the narrator doubted) came to the Apostle of Allah (may peace be upon him). So he commanded to fast on her behalf.

(3303) Buraidah said : A woman came to the Prophet (may peace be upon him) and said : I gave a slave-girl to my mother, but she died and left that slave-girl. He said : Your reward became certain for you, and she (the slave-girl) returned to you as inheritance. She said : She died and one month's fast was due from her. He (the narrator) then mentioned the tradition similar to the one mentioned by 'Amr b. 'Awn.

## Chapter 1239

## ON A MAN WHO DIES AND FASTS ARE DUE FROM HIM, AND HIS HEIR FASTS ON HIS BEHALF

(3304) Ibn 'Abbās said : A woman came to the Prophet (may peace be upon him) and said (to him) that one month's fast was due from her mother who had died. May I fulfil them on her behalf? He asked : Suppose some debt was due from your mother, would you pay it? She replied : Yes. He said : So the debt due to Allah is the one which most deserves to be paid.<sup>2757</sup>

(3305) 'Ā'ishah reported the Prophet (may peace be upon him) as saying : If anyone dies when some fast due from him has been unfulfilled, his heir must fast on his behalf.

2756. This shows that vows and other atonements should be fulfilled from the property of the dead by the heirs. This is held by al-Shāfi'i and the majority of scholars. Abū Ḥanīfah holds that the vow should be fulfilled if the deceased leaves a will to the same effect ('*Awn al-Ma'būd*, III, 324).

2757. This shows that if a man dies and leaves some fasts due on him unfulfilled, his heir can fulfil them. This view is held by al-Auzā'i, Aḥmad and al-Shāfi'i (according to his earlier view). Mālik and Abū Ḥanīfah hold that the heir should not keep fast on behalf of the deceased. He should give ransom for each fast by feeding the poor. Al-Shāfi'i also holds this view (as held by him later). Al Laith, Ishāq and Abū Ubaid opine that one should not keep fast on behalf of the deceased except the fast vowed by him ('*Awn al-Ma'būd*, III, 235).

## Chapter 1240

## COMMANDMENT FOR FULFILLING THE VOW

(3306) 'Amr b. Shu'aib, on his father's authority, said that his grandfather said : A woman came to the Prophet (may peace be upon him) and said : Apostle of Allah, I have taken a vow to play the tambourine over you. He said : Fulfil your vow. She said : And I have taken a vow to perform a sacrifice in such and such a place, a place in which people had performed sacrifices in pre-Islamic times. He asked : For an idol ? She replied : No. He asked : For an image ? She replied : No. He said : Fulfil your vow.<sup>27:8</sup>

(3307) Thābit b. al-Ḍaḥḥāk said : In the time of the Prophet (may peace be upon him) a man took a vow to slaughter a camel at Buwānah.<sup>27:9</sup> So he came to the Prophet (may peace be upon him) and said : I have taken a vow to sacrifice a camel at Buwānah. The Prophet (may peace be upon him) asked : Did the place contain any idol worshipped in pre-Islamic times ? They (the people) said : No. He asked : Was any pre-Islamic festival observed there ? They replied : No. The Prophet (may peace be upon him) said : Fulfil your vow, for a vow to do an act of disobedience to Allah must not be fulfilled, neither must one do something over which a human being has no control

(3308) Maimūnah daughter of Kadam said : I went out with my father for *Hajj* performed by the Apostle of Allah (may peace be upon him). I saw the Apostle of Allah (may peace be upon him) and heard the people say : Apostle of Allah (may peace be upon him). I fixed my eyes on him. My father came near him while he was riding on his she-camel. He had a flog like the flog of scribes. I heard the bedouins and the people say : The flog, the flog. My father came near him and held his foot. She said : He made a confession of him (i.e. his Prophethood) and stood and listened to him. He said : Apostle of Allah, I have taken a vow that if a male child is born to me, I shall slaughter a number of sheep at the end of Buwānah in the dale of a hill. The narrator said : I do not know (for certain), but that she said : Fifty (sheep). The Apostle of Allah (may peace be upon him) said : Does it contain any idol ? He said : No. Thereafter he said : Fulfil your vow that you have taken for Allah. He then gathered them (i.e. the sheep) and began to slaughter them. A sheep ran away from them. He searched for it saying : O Allah, fulfil my vow on my behalf. So he succeeded (in finding it) and slaughtered it.

(3309) A similar tradition has also been transmitted in brief by Maimūnah

2758. It is not a sin to offer sacrifice in the place where sacrifices were offered in pre-Islamic times. As the woman did not take a vow to sacrifice for the idols, her vow was valid. Hence the Prophet (may peace be upon him) asked her to fulfil her vow.

2759. The name of a place between Syria and Diyār Bakr.

daughter of Kardam son of Sufyān on the authority of her father through a different chain of narrators. This version adds : (The Prophet asked) : Does it contain an idol or was a festival of pre-Islamic times celebrated there ? He replied : No. I said : This mother of mine has taken a vow and walking (is binding on her). May I fulfil it on her behalf ? Sometimes the narrator Bashshār said : May we fulfil in on her behalf ? He said : Yes.

### Chapter 1241

#### TAKING A VOW FOR SOMETHING OVER WHICH ONE HAS NO CONTROL

(3310) 'Imrān b. Ḥuṣain said : 'Aḍbā'<sup>2760</sup> belonged to a man of Banū 'Aqīl. It used to go ahead of pilgrims.<sup>2761</sup> The man was then captivated. He was brought in chains to the Prophet (may peace be upon him). The Prophet (may peace be upon him) was riding on a donkey with a blanket on him. He said : Muḥammad, why do you arrest me and capture the one (i.e. the she-camel) which goes ahead of the pilgrims. He replied : We are arresting you on account of the crime committed by your allies Thaqlīf.<sup>2762</sup> Thaqlīf captivated two persons from among the Companions of the Prophet (may peace be upon him). He said (whatever he said) I am a Muslim, or he said : I have embraced Islam. When the Prophet (may peace be upon him) went ahead, he called him) : O Muḥammad, O Muḥammad. Abū Dāwūd said : I learnt it from the version of the narrator Muhammad b. 'Isā. The Prophet (may peace be upon him) was compassionate and kind-hearted. So he returned to him, and asked : What is the matter with you ? He replied : I am a Muslim. He said : Had you said it when the matter was in your hand, you would have succeeded completely. Abū Dāwūd said : I then returned to the version of the narrator Sulaimān (b. Ḥarb). He said : Muḥammad, I am hungry ; so feed me. I am thirsty ; so give me water. The Prophet (may peace be upon him) said : This is your need, or he said : This is his need (the narrator is doubtful). Later on the man was taken back (by Thaqlīf) as a ransom for the two men (of the Companions of the Prophet). The Prophet (may peace be upon him) retained 'Aḍbā' for his journey. The narrator said : The polytheists raided the pasturing animals of Medina and they took away 'Aḍbā'. When they took away 'Aḍbā', they also captivated a Muslim woman. They used to leave their camels in the fields for rest at night. One night they slept and the (Muslim) woman stood up. Any camel on which she put

2760. The name of a she-camel which belonged to the Prophet (may peace be upon him) later on.

2761. This she-camel used to go ahead of the pilgrims for their management on the way, as it ran quickly.

2762. Banū Thaqlīf arrested two Muslims. Hence the Muslims arrested this man as a ransom.

her hand brayed until she came to 'Aḍbā'. She came to a she-camel which was docile and experienced. She then rode on her and vowed to Allah that if He saved her, she would sacrifice it. When she came to Medina, the people recognised the she-camel of the Prophet (may peace be upon him). The Prophet (may peace be upon him) was then informed about it and he sent for her. She was brought to him and she informed him about her vow. He said : It is a bad return that you have given it. Allah has not saved you, on its (back) that you now sacrifice it. A vow to do an act of disobedience must not be fulfilled, or to do something over which one has no control.<sup>2763</sup>

### Chapter 1242

#### ON A MAN WHO VOWS TO GIVE HIS PROPERTY IN CHARITY

(3311) Ka'b b. Mālik said : I said : Apostle of Allah, to make my repentance complete I should divest myself of my property as *ṣadaqah* (alms) for Allah and His Apostle. The Apostle of Allah (may peace be upon him) said : Retain some of your property, for that will be better for you. So he said : I shall retain the portion I have at Khaibar.<sup>2764</sup>

(3312) Ka'b b. Mālik said to the Apostle of Allah (may peace be upon him) when his repentance was accepted : I should divest myself of my property. He then mentioned a similar tradition up to the words, "better for you".

(3313) Ibn Ka'b b. Mālik said that Ka'b b. Mālik, Abū Lubābah or someone else whom Allah wished said to the Prophet (may peace be upon him). To make my repentance complete I should depart from the house of my people in which I fell into sin, and that I should divest myself of all my property as *ṣadaqah* (alms). He said : A third (of your property) will be sufficient for you.<sup>2765</sup>

(3314) This tradition has also been transmitted by Ibn Ka'b b. Mālik through a different chain of narrators. This version has : "He then mentioned the tradition to

2763. This shows that one should not take a vow about something over which one has no control. If a man does so, he must not fulfil it.

2764. Ka'b b. Mālik could not participate in the battle of Tabūk without any valid reason. He was, therefore, boycotted by the Muslims for fifty days as remonstrance. When his repentance was accepted and the Qur'ānic verses were revealed about him, he desired to give his property in charity. But the Prophet (may peace be upon him) did not allow him to give away all his property.

2765. This shows that if a man vows to spend all his property as *ṣadaqah*, he should spend only a third. This is held by al-Zuhri, Ibn al-Musayyab and Mālik. Al-Shafi'i and Ahmad maintain that he should make atonement. Abū Ḥanīfah holds that he should spend all his property in charity except what is necessary for him like clothes to cover his private parts ('Awn al-Ma'bid, III, 239).

the same effect. This version attributes this story to Abū Lubābah."<sup>2 66</sup>

Abū Dāwūd said : This tradition has been narrated by Yūnus from Ibn Shihāb from some of the children of al-Sā'ib son of Abū Lubābah. A similar tradition has also been transmitted by al-Zabīdī from al-Zuhri from Ḥusain b. al-Sā'ib son of Abū Lubābah.

(3315) Ka'b b. Mālik said : I said : Apostle of Allah, to make my atonement complete I should divest myself of my all property as *ṣadaqah* (alms) for Allah and His Apostle. He said : No. I said : Then half of it. He said : No. I said : Then a third of it. He said : Yes. I said : I shall retain the portion I have at Khaibar.<sup>2 67</sup>

### Chapter 1243

#### ON A MAN WHO VOWS FOR A THING OVER WHICH HE HAS NO CONTROL

(3316) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : If anyone takes a vow but does not name it, its atonement is the same as that for an oath ;<sup>2768</sup> if anyone takes a vow to do an act of disobedience, its atonement is the same as that for an oath,<sup>2769</sup> if anyone takes a vow he is unable to fulfil, its

2766. Banū Quraizah requested the Prophet (may peace be upon him) to conclude a treaty of peace with them to behave with them like Banū al-Nadīr. The Prophet (may peace be upon him) refused but said that he would make Sa'd b. Mu'adh arbitrator for deciding their case. Then they consulted Abū Lubābah about this matter. The family of Abū Lubābah was with Banū Quraizah. He put his hand to his throat to indicate that they would be put to death. He thus gave them a warning. He then felt that he had committed a sin. Therefore, he repented for this sin and tied himself with a rope to a pillar. He was untied by the Prophet (may peace be upon him) when his repentance was accepted. He is also reported to have taken the vow to spend all his property as *ṣadaqah* for Allah. The same story as reported about Ka'b b. Mālik is also attributed to Abū Lubābah. The Qur'ānic verse viii. 27 is said to be connected with this incident.

2767. It is disputed amongst scholars how much one should spend from one's property if one vows to give all the property in charity. There are ten views on this question. Mālik holds that he should give a third of his property as this tradition shows. Most of scholars hold that he should give all his property in charity. According to another view, if he is rich, he should give all his property. But if he is poor, he should make atonement for the break of his vow. This is maintained by al-Laith and Ibn Wahb. They also add that if he is a man of average standing, he should give as much property as he gives as *zakāt*. Abū Ḥanīfah opines that either he should give all his property or make atonement for the break of his vow. Some scholars are of opinion that it depends on one's financial condition and circumstances. If a man is able to give all his property in charity, he should do so. If he cannot do, he should make atonement ('*Awn al-Ma'būd*, III, 240).

2768. For instance, a man vows saying : I take a vow. He does not mention anything about his vow binding on him. Such a vow is also binding. He should make atonement for it.

2769. A vow for an act of disobedience to Allah is not valid. One should not fulfil it. The atonement is not binding.



atonement is the same as that for an oath ;<sup>2770</sup> but if anyone takes a vow he is able to fulfil, he must do so.

Abū Dāwūd said : This tradition has been transmitted by Waki' and others on the authority of 'Abd Allah b. Sa'id b. Abī al-Hind, but they traced it no farther back than Ibn 'Abbās.<sup>2771</sup>

### Chapter 1244

#### ON A MAN WHO TAKES A VOW BUT DOES NOT NAME IT

(3317) 'Uqbah b. 'Āmir reported the Apostle of Allah (may peace be upon him) as saying : The atonement for a vow is the same as for an oath.<sup>2772</sup>

Abū Dāwūd said : This tradition has also been transmitted by 'Amr b. al-Ḥārith from Ka'b b. 'Ālqamah, from Ibn Shamāsah on the authority of 'Uqbah.

(3318) A similar tradition has also been transmitted by 'Uqbah b. 'Āmir from the Prophet (may peace be upon him) through a different chain of narrators.

### Chapter 1245

#### IF A MAN TAKES A VOW IN PRE-ISLAMIC TIMES (WHEN HE WAS A NON-MUSLIM), AND THEN HE EMBRACES ISLAM, WHAT SHOULD HE DO ?

(3319) Ibn 'Umar reported that 'Umar said : Apostle of Allah, I took a vow in pre-Islamic times that I would stay in the sacred mosque (*Maṣjid Ḥarām*) as a devotion (*i'tikāf*). The Prophet (may peace be upon him) said : Fulfil your vow.<sup>2773</sup>

2770. For instance, a man vows that if he succeeds in the examination, he will lift the mountain. For such a vow he should make atonement.

2771. Waki' narrates this tradition from 'Abd Allah b. Sa'id as a statement of Ibn 'Abbās and not as a statement of the Prophet (may peace be upon him). But Ṭalḥah b. Yaḥyā narrates it from 'Abd Allah b. Sa'id as a statement of the Prophet (may peace be upon him).

2772. This shows that if a man takes a vow but does not name it, he should make an atonement as that for an oath.

2773. This shows that if a non-Muslim takes a vow, and then he embraces Islam, he should fulfil his vow. This is held by some of the followers of al-Shāfi'ī. According to the majority of scholars, the vow of a non-Muslim is not valid. So he should not fulfil it. But this tradition clearly indicates that the vow should be fulfilled, as the Prophet (may peace be upon him) asked 'Umar to fulfil it (*'Awn al-Ma'būd*, III, 241).

## XVI. KITĀB AL-BUYŪ<sup>2774</sup>

### [ BOOK OF COMMERCIAL TRANSACTIONS ]

#### *Chapter 1246*

#### UNPROFITABLE SPEECH AND SWEARING HAVE A PLACE IN BUSINESS DEALINGS

(3320) Qais b. Abī Gharazah said: In the time of the Apostle of Allah (may peace be upon him) we used to be called brokers, but the Prophet (may peace be upon him) came upon us one day, and called us by a better name than that, saying: Company of merchants, unprofitable speech and swearing have a place in business dealings, so mix it with *ṣadaqah* (alms).

(3321) The tradition mentioned above has also been transmitted by Qais b. Abī Gharazah through a different chain of narrators to the same effect. This version has: "Lying and swearing have a place in it." 'Abd Allah al-Zuhrī said: "Unprofitable speech and lying."

#### *Chapter 1247*

#### OBTAINING GOLD FROM MINES

(3322) Ibn 'Abbās said: A man seized his debtor who owed ten dīnārs to him. He said to him: I swear by Allah, I shall not leave you until you pay off (my debt) to me or bring a surety. The Prophet (may peace be upon him) stood as a surety for him. He then brought as much (money) as he promised. The Prophet (may peace be upon him) asked: From where did you acquire this gold? He replied: From a mine. He said: We have no need of it; there is no good in it. Then the Apostle of Allah (may peace be upon him) paid (the debt) on his behalf.<sup>2775</sup>

2774. In Arabic *buyū* is a wider term. It is applicable to all business dealings and commercial transactions.

Since business dealings involve useless talk and swearing, it is necessary that a man should give some *ṣadaqah* (alms) as an atonement.

2775. The Prophet (may peace be upon him) might have prohibited the man to have the gold from a mine due to some valid reason known to him. Otherwise it is permissible normally to buy and sell gold or silver obtained from a mine. The Prophet (may peace be upon him) himself granted

## Chapter 1248

## AVOIDING DOUBTFUL THINGS

(3323) Al-Nu'mān b. Bashīr said: I heard the Apostle of Allah (may peace be upon him) say: What is lawful is clear and what is unlawful is clear, but between them are certain doubtful things. I give you an example for this. Allah has a preserve, and Allah's preserve is the things He has declared unlawful. He who pastures (his animals) round the preserve will soon fall into it. He who falls into doubtful things will soon be courageous.<sup>2776</sup>

(3324) Al-Nu'mān b. Bashīr said: I heard the Apostle of Allah (may peace be upon him) say: But between them are certain doubtful things which many people do not recognise. He who guards against doubtful things keeps his religion and his honour blameless, but he who falls into doubtful things falls into what is unlawful.

(3325) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: A time is certainly coming to mankind when only the receiver of usury will remain, and if he does not receive it, some of its vapour will reach him. Ibn 'Isā said: Some of its dust will reach him.<sup>2777</sup>

as a fief a mine known as Qabaliyah to Bilāl b. al-Hārith. Secondly, the prohibition might be due to the fact that the people used to sell the dust taken out from a mine. There is an apprehension of hazard in such a transaction. Many scholars like 'Aṭā', al-Sha'bī, Sufyān al-Thawrī, al-Auzā'ī, al-Shāfi'ī, Ahmad b. Hanbal and Ishāq b. Rāhwaiḥ disapprove of the sale of gold dust taken out from a mine. Thirdly, he might have thought that the debt should be paid in coins and not in ore or gold dust. Fourthly, it was not known how much levy the man had paid on the gold dust or ore which he had taken out from the mine. The levy might be a tenth, a fifth or a third of the quantity which he acquired from the mine. This tradition also sanctions demanding bail, pursuing a debtor, and prohibiting him from appropriation until he pays the debt (*'Aun al-Ma'būd*, III, 247).

2776. The full text of this tradition as recorded by al-Bukhārī and Muslim is as follows:

"What is lawful is clear and what is unlawful is clear, but between them are certain doubtful things which many people do not recognise. He who guards against doubtful things keeps his religion and his honour blameless, but he who falls into doubtful things falls into what is unlawful, just as a shepherd who pastures his animals round a preserve will soon pasture them in it. Every king has a preserve, and Allah's preserve is the things He has declared unlawful. In the body there is a piece of flesh, and the whole body is sound if it is sound, but the whole body is corrupt if it is corrupt. It is the heart."

This tradition shows that acts are of three kinds, namely, lawful, unlawful, and doubtful. Lawful and unlawful acts have been explicitly mentioned in the Qur'ān and the traditions of the Prophet (may peace be upon him). Doubtful things have not been mentioned there. Things for which a man cannot decide for certain whether they are lawful or unlawful are doubtful. It is better to avoid such things.

2777. This is a prediction of the Prophet (may peace be upon him). This refers to the dominance of usurious transactions in society. During this period of time no one can escape receiving usury. Everyone will be involved in it in one way or the other. If a man does not receive it directly

(3326) 'Āṣim b. Kulaib quoted his father's authority for the following statement by one of the *Anṣār*: We went out with the Apostle of Allah (may peace be upon him) to a funeral, and I saw the Apostle of Allah (may peace be upon him) at the grave giving this instruction to the grave-digger: Make it wide on the side of his feet, and make it wide on the side of his head. When he came back, he was received by a man who conveyed an invitation from a woman. So he came (to her), and food was brought, and he put his hand (i.e. took a morsel in his hand); the people did the same and they ate. Our fathers noticed that the Apostle of Allah (may peace be upon him) was moving a morsel in his mouth. He then said: I find the flesh of a sheep which has been taken without its owner's permission. The woman sent a message to say: Apostle of Allah, I sent (someone) to al-Naqī<sup>2778</sup> to have a sheep bought for me, but there were none; so I sent (a message) to my neighbour who had bought a sheep asking him to send it to me for the price (he had paid), but he could not be found. I, therefore, sent (a message) to his wife and she sent it to me. The Apostle of Allah (may peace be upon him) said: Give this food to the prisoners.<sup>2779</sup>

### Chapter 1249

#### ONE WHO ACCEPTS USURY AND ONE WHO PAYS IT

(3327) 'Abd Allah b. Mas'ūd said that the Apostle of Allah (may peace be upon him) cursed the one who accepted usury, the one who paid it, the witness to it, and the one who recorded it.<sup>2780</sup>

### Chapter 1250

#### ABOLITION OF USURY

(3328) Sulaimān b. 'Amr reported on the authority of his father: I heard the Apostle of Allah (may peace be upon him) say in the Farewell Pilgrimage: "Lo, all he will be affected by it. He may be a witness to or a scribe in a usurious dealing; or he may be the guest of a person who receives usury, and may accept a present from him.

2778. The name of a place where sheep were sold.

2779. These prisoners might be poor. It is also said that they were non-Muslims. This tradition shows that the Prophet (may peace be upon him) avoided eating such a doubtful food. He set an example for his followers to avoid doubtful things. The owner of the sheep might not be found till the last moment.

This tradition also indicates that a doubtful thing can be given in alms, and that it should not be used by a man himself. It should be given to a poor or a needy.

2780. This shows that one should avoid not only receiving or giving usury but also providing any help or means to it.

claims to usury of the pre-Islamic period have been abolished. You shall have your capital sums, deal not unjustly and you shall not be dealt with unjustly.<sup>2781</sup> Lo, all claims for blood-vengeance belonging to the pre-Islamic period have been abolished. The first of those murdered among us whose blood-vengeance I remit is al-Hārith<sup>2782</sup> b. 'Abd al-Muṭṭalib, who suckled among Banū Laith and killed by Hudhail. He then said : O Allah, have I conveyed the message ? They said : Yes, saying it three times. He then said : O Allah, be witness, saying it three times.<sup>2783</sup>

### Chapter 1251

#### SWEARING WHILE TRANSACTING BUSINESS

(3329) Abū Hurairah said : I heard the Apostle of Allah (may peace be upon him) say : Swearing produces a ready sale for a commodity but blots out the blessing. The narrator Ibn al-Sarḥ said : "for earning". He also narrated this tradition from Sa'id b. al-Musayyab on the authority of Abū Hurairah from the Prophet (may peace be upon him).<sup>2784</sup>

### Chapter 1252

#### GIVING OVER WEIGHT AND WEIGHING ON PAYMENT

(3330) Suwaid b. Qais said : I and Makhrafat al-'Abdī imported some garments from Hajar,<sup>2785</sup> and brought them to Mecca. The Apostle of Allah (may peace be upon him) came to us walking, and after he had bargained with us for some trousers,<sup>2786</sup>

2781. Qur'ān, ii. 279.

2782. This is the version of Abū Dāwūd. Other traditionists record it as Rabi'ah b. al-Hārith.

2783. This excerpt has been taken from the address delivered by the Prophet (may peace be upon him) at the Farewell Pilgrimage. The Prophet (may peace be upon him) in this address abolished all claims to usury. Thus he strictly prohibited usury in Islam as it was condemned by Allah in the Qur'ān.

2784. This tradition shows that a man, while transacting business, should not swear by Allah. There may be a ready sale of the commodity, but it removes the blessing. In commercial transactions blessing of Allah can be acquired by lowest dealing and not by swearing.

2785. The name of a place near Medina.

2786. This shows that the Prophet (may peace be upon him) bought trousers. But it is disputed whether he used them or not. Ibn Qayyim said that he had put on trousers. There is a tradition recorded in *Musnad Abi Ya'la*, and *al-Mu'jam al-Ausaf* on the authority of Abū Hurairah. He said : One day I entered the market with the Apostle of Allah (may peace be upon him). He sat with the cloth merchants. He purchased a pair of trousers for four dihamms. I asked him : Do you wear trousers, Apostle of Allah ? He replied : Yes (I use it) during journey and while at home, at night and in the daytime. I have been commanded to cover my private parts. I did not find anything more covering than it (*'Awn al-Ma'būd*, III, 250).



we sold them to him. There was a man who was weighing for payment. The Apostle of Allah (may peace be upon him) said to him : Weigh out and give overweight.<sup>2787</sup>

(3331) The tradition mentioned above has also been transmitted by Abū Ṣafwān b. 'Umairah through a different chain of narrators. This version has : Abū Ṣafwān said : I came to the Apostle of Allah (may peace be upon him) at Mecca before his immigration. He then narrated the rest of the tradition, but he did not mention the words "who was weighing for payment".

Abū Dāwūd said : Qais also transmitted it as Sufyān said : The version of Sufyān is authoritative.

(3332) Ibn Abī Rizmah said : I heard my father say : A man said to Shu'bah : Sufyān opposed you (i.e. narrated a tradition which differs from your version). He replied : You racked my mind. I have been told that Yaḥyā b. Ma'in said : If anyone opposes Sufyān, the version of Sufyān will be acceptable.

(3333) Shu'bah said : The memory of Sufyān was stronger than mine.<sup>2788</sup>

### Chapter 1253

#### THE SAYING OF THE PROPHET (MAY PEACE BE UPON HIM): THE STANDARD MEASURE IS THE MEASURE OF MEDINA

(3334) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying : (The standard) weight is the weight of the people of Mecca, and the (standard) measure is the measure of the people of Medina.<sup>2789</sup>

Abū Dāwūd said : Al-Firyābī and Abū Aḥmad have also transmitted from Sufyān in a similar way, and he (Ibn Dukain) agreed with them on the text. The version of Abū Aḥmad has : "from Ibn 'Abbās" instead of Ibn 'Umar. It has also been trans-

2787. This shows that it is permissible to weigh or measure for payment. The Prophet (may peace be upon him) has indicated in this tradition that one must give overweight while weighing a thing. The reason is that there is no fear of underweighing in this way. If a man maintains the equilibrium, he may give sometimes less than the requisite quantity.

2788. Shu'bah means that Sufyān retained correct versions of the traditions and never forgot them, for he had a powerful memory.

2789. The weight and measure in this tradition refer to the weight and measure of gold and silver. This means that in the case of *zakāt* the weight of the people will be considered a standard weight. In Mecca the weight of ten dirhams was seven mithqāls, for the weight of dirhams in those days varied from place to place. The measure in this tradition refers to *sā'* used for the payment of expiations, atonements and *Ṣadaqat al-Fiṣr*. The standard *ṣā'* for the measurement is the *sā'* of the people of Medina.

Explaining this tradition some scholars observe that as the people of Medina were agriculturists, their measure was taken as standard measure. The people of Mecca were merchants. Hence their weight was considered the standard one ('*Awn al-Ma'būd*, III, 251).

mitted by al-Walīd b. Muslim from Ḥanzalah. This version has : "the weight of Medina and the measure of Mecca".

Abū Dāwūd said : There is a variation in the text of the version of this tradition narrated by Mālik b. Dīnār from 'Aṭā' from the Prophet (may peace be upon him).

### Chapter 1254

#### GRAVITY OF NOT PAYING THE DEBT

(3335) Samurah said : The Apostle of Allah (may peace be upon him) addressed us and said : Is here any one of such and such tribe present ? But no one replied. He again asked : Is here any one of such and such tribe present ? But no one answered. He again asked : Is here any one of such and such tribe present ? Then a man stood and said : I am (here), Apostle of Allah. He said : What prevented you from replying the first two times ? I wish to tell you something good. Your companion has been detained (from entering Paradise) on account of his debt.<sup>2790</sup> Then I saw him that he<sup>2791</sup> paid off all his debt on his behalf and there remained no one to demand from him anything.

Abū Dāwūd said : The name of the narrator Sam'ān is Sam'ān b. Mushannaj.

(3336) Abū Mūsā al-Ash'arī reported the Apostle of Allah (may peace be upon him) as saying : After the grave sins which Allah has prohibited the greatest sin is that a man dies while he has debt due from him and does not leave anything to pay it off, and meets Him with it.<sup>2792</sup>

(3337) Jābir said : The Apostle of Allah (may peace be upon him) would not say funeral prayer over a person who died while the debt was due from him. A dead Muslim was brought to him and he asked : Is there any debt due from him ? They (the people) said : Yes, two dirhams. He said : Pray yourselves over your companion. Then Abū Qatādat al-Anṣārī said : I shall pay them, Apostle of Allah. The Apostle of Allah (may peace be upon him) then prayed over him. When Allah granted conquests to the Apostle of Allah (may peace be upon him), he said : I am nearer to every believer than himself, so if anyone (dies and) leaves a debt, I shall be responsible for paying it ; and if anyone leaves property, it goes to his heirs.

2790. The other versions of this tradition indicate that the Prophet (may peace be upon him) uttered these words about a man who had died. Since he could not clear his debt in the world, he was detained from entering Paradise. It is necessary to pay off all the debt before death, as the debt is the right of men. Allah can forgive His own right but not the right of the people.

2791. This refers to the man whom the Prophet (may peace be upon him) addressed and informed him of his companion.

2792. This shows that one should try to pay one's debt as soon as possible in this worldly life. One does not know when one may die.

(3338) A similar tradition has also been transmitted by Ibn 'Abbās through a different chain of narrators. This version says : "He (the Prophet) purchased a calf from a caravan, but he had no money with him. He then sold it with some profit and gave the profit in charity to the poor and widows of Banū 'Abd al-Muṭṭalib. He then said : I shall not buy anything after this but only when I have money with me.<sup>2793</sup>

### Chapter 1255

#### DELAY IN PAYMENT OF DEBT

(3339) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Delay in payment (of debt) by a rich man is injunctive,<sup>2794</sup> but when one of you is referred to a wealthy man, he should accept the reference.<sup>2795</sup>

### Chapter 1256

#### PAYMENT OF DEBT IN A GOOD MANNER

(3340) Abū Rāfi' said : The Apostle of Allah (may peace be upon him) borrowed a young camel, and when the camels of the *ṣadaqah* (alms) came to him, he ordered me to pay the man his young camel. I said : I find only an excellent camel in its seventh year. So the Prophet (may peace be upon him) said : Give it to him, for the best person is he who discharges his debt in the best manner.

(3341) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) owed me a debt and gave me something extra when he paid it.<sup>2796</sup>

### Chapter 1257

#### EXCHANGE OF MONEY

(3342) 'Umar reported the Apostle of Allah (may peace be upon him) as saying : Gold for gold is usury unless both hand over on the spot ;<sup>2797</sup> wheat for wheat is usury

2793. The Prophet (may peace be upon him) did not like to purchase anything on loan. He also disliked the profit accrued from it.

2794. This shows the importance of paying the debt as soon as the money is available. It is unjust to delay the payment of one's debt when he is able to do so.

2795. Sometimes the debtor is not able to pay the debt himself. He, therefore, transfers it to a rich man to pay the debt on his behalf. If a man transfers his debt to someone, the creditor should accept the transfer and receive payment from the transferee.

2796. This shows that a man can return the loan more than what is due from him. This is not counted as interest for a man gives it with his own consent without any condition.

2797. The Arabic word *hā waha* means literally "take and take."

unless both hand over on the spot ; dates for dates is usury unless both hand over on the spot ; barley for barley is usury unless both hand over on the spot.<sup>2798</sup>

(3343) 'Ubādah b. al-Ṣāmit reported the Apostle of Allah (may peace be upon him) as saying : Gold is to be paid for by gold, raw and coined, silver by silver, raw and coined (with equal weight), wheat by wheat with equal measure, barley by barley with equal measure, dates by dates with equal measure, salt by salt with equal measure ; if anyone gives more or asks more, he has dealt in usury. But there is no harm in selling gold for silver and silver (for gold), with unequal weight, payment being made on the spot. Do not sell them if they are to be paid later. There is no harm in selling wheat for barley and barley (for wheat) with unequal measure, payment being made on the spot. If the payment is to be made later, then do not sell them.<sup>2799</sup>

Abū Dāwūd said : This tradition has also been transmitted by Sa'īd b. Abī 'Arūbah, Hishām al-Dastawā'i and Qatādah from Muslim b. Yasār through his chain.

(3344) The tradition mentioned above has also been transmitted by 'Ubādah b. al-Ṣāmit through a different chain of transmitters with some alteration. This version adds : "He said : If these classes differ, sell as you wish if payment is made on the spot."

### Chapter 1258

#### SALE OF ORNAMENTS OF SWORD FOR DIRHAMS

(3345) Fuḍālah b. 'Ubaid said : The Prophet (may peace be upon him) was

2798. Exchange of gold for gold and silver for silver is called *ṣarf* transaction. Exchange of money is valid on two conditions, namely, equivalent weight and handing over money on the spot. If the delivery is postponed or the weight is disparate, the transaction will be reckoned as usury. But exchange of silver for gold or *vice versa* with unequal weight is valid on the spot. Delivery cannot be postponed.

2799 Another tradition transmitted by al-Shāfi'i says : But sell gold for silver, silver for gold, wheat for barley, barley for wheat, dates for salt and salt for dates, payment being made on the spot, as you wish. Muslim has recorded a tradition which explains it saying : If these classes differ, sell as you wish if payment is made on the spot. All these traditions indicate that these commodities should be sold with equal weight and measure if one kind is exchanged for the same kind. Further, the payment should be made on the spot. If the payment is deferred, the transaction will be invalid. This view is held by the majority of scholars. According to Abū Ḥanīfah, immediate payment is necessary for money, i.e. gold and silver. If gold is exchanged for silver, immediate payment is necessary. If wheat is exchanged for barley, then immediate payment or delivery is not necessary. The majority opinion has it that if the kinds do not differ, excess is not allowed whether payment is made on the spot or deferred. If the kinds differ, excess is allowed if payment is made on the spot, but not allowed if payment is deferred (*'Awn al-Ma'būd*, III, 254).

brought a necklace in which there were gold and pearls. The narrators Abū Bakr and (Aḥmad) Ibn Maṣ' said : The pearls were set with gold in it, and a man bought it for nine or seven dīnārs (the narrator is doubtful). The Prophet (may peace be upon him) said : (it must not be sold) till the contents are considered separately. The narrator said : He returned it till the contents were considered separately.<sup>800</sup> The narrator Ibn 'Asā said : By this I intended trade.

Abū Dāwūd said : The word *ḥijārah* (stone) was recorded in his note-book before, but he changed it and narrated *tijārah* (trade).

(3346) Fuḍālah b. 'Ubaid said : At the battle of Khaibar I bought a necklace in which there were gold and pearls for twelve dīnārs. I separated them and found that its worth was more than twelve dīnārs. So I mentioned that to the Prophet (may peace be upon him) who said : It must not be sold till the contents are considered separately.

(3347) Fuḍālah b. 'Ubaid said : We were with the Apostle of Allah (may peace be upon him) at the battle of Khaibar. We were selling to the Jews one ūqiyah<sup>2801</sup> of gold for one dīnār. The narrators other than Qutaibah said : "for two or three dīnārs." Then both the versions agreed. The Apostle of Allah (may peace be upon him) said : Do not sell gold for gold except with equal weight.<sup>2802</sup>

## Chapter 1259

### EXCHANGE OF GOLD FOR SILVER

(3348) Ibn 'Umar said : I used to sell camels at al-Baqī'<sup>2803</sup> for dīnārs and take dirhams for them, and sell for dirhams and take dīnārs for them. I would take these for these and give these for these. I went to the Apostle of Allah (may peace be upon him) who was in the house of Ḥafṣah. I said : Apostle of Allah, take it easy, I shall ask you (a question) : I sell camels at al-Baqī'. I sell (them) for dīnārs and take dirhams and I sell for dirhams and take dīnārs. I take these for these, and give these for these.

2800. Gold should be sold with equal weight. As dīnārs contained gold, the quantity exchanged for each should be equal. The weight of the quantity of gold set in the necklace was not known. There was a doubt of disparity between the two quantities. Hence the Prophet (may peace be upon him) asked the man to sell the gold separately for dīnārs with equal weight, and sword and pearls separately.

2801. One ūqiyah amounts to forty dirhams.

2802. The Prophet (may peace be upon him) did not allow to sell one ūqiyah of gold for one, two or three dīnārs as there might be disparity in weight. The weight of dīnār and ūqiyah should be equal.

2803. This refers to Baqī' al-Gharqad. This word has also been reported as al-Naḥī', a place near Medina.



The Apostle of Allah (may peace be upon him) then said : There is no harm in taking them at the current rate so long as you do not separate leaving something to be settled.<sup>2804</sup>

(3349) The tradition mentioned above has also been transmitted by Simāk (b. Ḥarb) with a different chain of narrators and to the same effect. The first version is more perfect. It does not mention the words "at the current rate."

### Chapter 1260

#### SALE OF ANIMALS FOR ANIMALS WHEN PAYMENT IS MADE AT A LATER DATE

(3350) Samurah (b. Jundub) said that the Prophet (may peace be upon him) forbade selling animals for animals when payment was to be made at a later date.<sup>2805</sup>

### Chapter 1261

#### PERMISSION FOR SALE OF ANIMALS FOR ANIMALS WHEN PAYMENT IS MADE AT A LATER DATE

(3351) 'Abd Allah b. 'Amr said that the Apostle of Allah (may peace be upon him) commanded him to equip an army, but the camels were insufficient. So he commanded him to keep back the young camels of *ṣadaqah*,<sup>2806</sup> and he was taking a camel

2804. As this is exchange of money (*ṣarf*), it is necessary that payment should be made on the spot. There is a difference of opinion amongst scholars on the exchange of dirhams for dīnār. Most of them allow this transaction. Abū Salamah b. 'Abd al-Raḥman and Ibn Shubrumah disallowed it. Ibn Abī Lailā disapproves of it except at the current rate. The version of Simāk b. Ḥarb traces back this tradition to the Prophet (may peace be upon him). Other versions mention it as a statement of Ibn 'Umar himself, not tracing back to the Prophet (may peace be upon him) ('*Awn al-Ma'būd*, III, 256).

2805. This means that whether payment is made by one party at a later date or by both, the transaction is forbidden. This is held by Abū Ḥanīfah. But the majority of scholars allow the sale of animals for animals when payment is made at a later date. Al-Shāfi'ī observes that this tradition is not traced back to the Prophet (may peace be upon him). Al-Bukhārī says that this tradition has been established through the chain of 'Ikrimah from Ibn 'Abbās as his own statement (*mauqūf*) and not as a saying of the Prophet (may peace be upon him), or it has been narrated by 'Ikrimah from the Prophet (may peace be upon him) directly, omitting the link of Ibn 'Abbās. It is thus a *mursal* tradition. Similarly, it has been transmitted by Ziyād b. Jubair from the Prophet (may peace be upon him) as a *mursal* tradition, omitting the link of the Companion. It is worthy of remark that all the chains of transmitters of this tradition are weak ('*Awn al-Ma'būd*, III, 256).

2806. Here *ṣadaqah* refers to the camels of *ṣahāt* that were given by the people to the Prophet (may peace be upon him).

to be replaced by two when the camels of *ṣadaqah* came.<sup>2807</sup>

### Chapter 1262

#### SALE OF ANIMALS FOR ANIMALS WHEN PAYMENT IS MADE ON THE SPOT

(3352) Jābir said that the Prophet (may peace be upon him) bought a slave for two slaves.<sup>2808</sup>

### Chapter 1263

#### SALE OF DATES FOR DATES

(3353) Zaid Abū 'Ayyāsh asked Sa'd b. Abī Waqqāṣ about the sale of the soft and white kind of wheat for barley. Sa'd said : Which of them is better ? He replied : Soft and white kind of wheat. So he forbade him from it and said : I heard the Apostle of Allāh (may peace be upon him) (say) when he was asked about buying dry dates for fresh. The Apostle of Allāh (may peace be upon him) said : Are fresh dates diminish-ed when they become dry ? They (the people) replied : Yes. So the Apostle of Allāh (may peace be upon him) forbade that.<sup>2809</sup>

Abū Dāwūd said : A similar tradition has also been transmitted by Ismā'īl b. Umayyah.

(3354) Sa'd b. Abī Waqqāṣ said : The Apostle of Allāh (may peace be upon him) forbade to sell fresh dates for dry dates when payment is made at a later date.<sup>2810</sup>

Abū Dāwūd said : The tradition mentioned above has also been transmitted by Sa'd (b. Abī Waqqāṣ) from the Prophet (may peace be upon him) through a different

2807. The majority of scholars hold that it is lawful to sell animals for animals with disparity when payment is made at a later date. Mālik stipulates that it is allowed when the kind differs. Abū Ḥanīfah and Aḥmad b. Ḥanbal hold that it is unlawful to sell animals for animals when payment is made at a later date. Al-Shāfi'ī thinks that the traditions which prohibit such a transaction in fact mean that payment is deferred to a later date by both sides. This is known as sale of a non-existent thing for a non-existent thing. Such a transaction is forbidden by all ('*Awn al-Ma'būd*, III, 256).

2808. This shows that sale of animals for animals with disparity is allowed when payment is made on the spot. There is no difference of opinion amongst scholars on this question.

2809. Sale of dry dates for fresh dates is forbidden. This is held by the majority of scholars. But Abū Ḥanīfah maintains that it is permissible to sell dry dates for fresh dates when they are equal in weight and payment is made on the spot. He thinks that this tradition which prohibits such a sale means the sale of dates when payment is deferred.

2810. There is no disagreement among scholars on the prohibition of sale of dry dates for fresh dates when payment is deferred.

chain of narrators in a similar way.

### Chapter 1264

#### MUZĀBANAH (SALE OF FRUIT ON THE TREE FOR A SPECIFIED MEASURE OF FRUITS NOT ON THE TREE)

(3355) Ibn 'Umar said : The Prophet (may peace be upon him) forbade the sale of fruits on the tree for fruits by measure, and sale of grapes for raisins by measure, and sale of harvest for wheat by measure.<sup>2811</sup>

### Chapter 1265

#### SALE OF 'ARĀYĀ<sup>2812</sup>

(3356) Zaid b. Thābit said : The Prophet (may peace be upon him) gave licence for the sale of 'arāya for dried dates and fresh dates.

(3357) Sahl b. Abi Khathmah said : The Apostle of Allah (may peace be upon him) forbade the sale of fruits for dried dates, but gave licence regarding the 'arḍyā for its

2811. In traditions many terms have been used for the exchange of fruits for fruits on the tree and exchange of corn for harvest. They are as follows :

*Musābanah* : Exchange of dry dates, raisins, etc., for dates or grapes still in growth, without specifying weight, measure, or number, against an object which is specified.

*Muḥḍalah* : Lease of land for food or exchange of grain still in the ear.

*Mukhābarah* : Lease of land against a certain part of its produce.

*Mulḍamah* : Barter in which objects exchanged are touched by the parties at the time of transaction.

*Mundbadhah* : Barter by throwing goods to each other without seeing the objects exchanged.

*Mu'dwamah* : Lease of land or a fruit tree against anything for a number of years.

All these forms of transactions have been forbidden by the Prophet (may peace be upon him) for they are aleatory transactions (*bai' al-gharar*). For details, see Ziaul Haq, *Landlord and Peasant in Early Islam*, Islamabad : Islamic Research Institute, 1977, pp. 10-28

2812 'Arḍyā is the plural of 'ariyyah. It means that a palm-tree was assigned by its owner to a poor man to eat its fruit for a year. But by the frequent visits to a poor man to the garden the owner sometimes felt inconvenience. So the owner gave dried dates to the poor man against the fruit on the palm-tree. But this was *musābanah* transaction already forbidden by the Prophet (may peace be upon him). By the Prophet (may peace be upon him) allowed the transaction of 'ariyyah as an exceptional case in view of the need of the poor. It is said that the poor sometimes had no money to buy fresh dates. So they bought fruit on a palm-tree for dry dates. In normal conditions the transaction of 'ariyyah is permissible up to the amount of five wasqs, but not allowed more than this. This is a special concession granted by the Prophet (may peace be upon him) to the poor.

sale on the basis of a calculation of their amount. But those who buy them can eat them when fresh.

### Chapter 1266

#### AMOUNT OF 'ARIYYAH PERMITTED BY THE PROPHET (MAY PEACE BE UPON HIM)

(3358) Abū Hurairah said : The Apostle of Allah (may peace be upon him) gave licence regarding the sale of 'arāyā when the amount was less than five wasqs<sup>2813</sup> or five wasqs.<sup>2814</sup> Dāwūd b. al-Ḥuṣain was doubtful.

Abū Dāwūd said : The tradition narrated by Jābir indicates up to four wasqs.

### Chapter 1267

#### EXPLANATION OF 'ARĀYĀ

(3359) 'Abd Rabbiḥ b. Sa'īd al-Anṣārī said : 'Arīyyah means that a man gives another man a palm-tree on loan, or it means that reserves one or two palm-trees from his property for his personal use, then he sells for dried dates.<sup>2815</sup>

(3360) Ibn Ishāq said : 'Arāyā means that a man lends another man some palm-trees, but he (the owner) feels inconvenient that the man looks after the trees (by his frequent visits). He (the borrower) sells them (to the owner) by calculation.<sup>2816</sup>

2813. *Wasq* is a camel-load equivalent to 60 ṣā's.

2814. Mālik and al-Sbāḥī allow the sale of 'arīyyah amounting to less than five wasqs. The amount of five wasqs or more is disputed among them. The tradition of Jābir recorded by Aḥmad b. Ḥanbal in his *Musnad* indicates up to four wasqs. This shows that the amount of four wasqs is certain and agreed. It is, therefore, advisable to sell only four wasqs of 'arīyyah and not more than it ('*Awn al-Ma'būd*, III, 259).

2815. Suppose a man sells the fruits of all his orchard of palm-trees, and he reserves one or two trees from them for his own use. But the purchaser of the fruit feels inconvenience by his frequent visits to the garden. He, therefore, purchases the reserve trees too for dried dates. This is allowed in view of need.

2816. Explaining 'arīyyah, al-Nawawī says : It means that a man after estimating the amount of fruits on some palm-trees in his orchard says to another man that they will amount to three wasqs approximately when they are dried. He then sells him these fruits on the trees for three wasqs approximately when they are dried. He then sells him these fruits on the trees for three wasqs of dried dates and both take the possession of dates and trees in the same meeting. It is allowed when it amounts to less than five wasqs, and not in amounts more than it ('*Awn al Ma'būd*, III, 258).

## Chapter 1268

SALE OF FRUITS BEFORE THEY ARE CLEARLY  
IN GOOD CONDITION

(3361) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) forbade the sale of fruits till they were clearly in good condition, forbidding it both to the seller and to the buyer.<sup>2817</sup>

(3362) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) forbade selling palm-trees till the dates began to ripen, and ears of corn till they were white and were safe from blight,<sup>2818</sup> forbidding it both to the buyer and to the seller.

(3363) Abū Hurairah said : The Apostle of Allah (may peace be upon him) forbade to sell spoils of war till they are apportioned,<sup>2819</sup> and to sell palm-trees till they are safe from every blight,<sup>2820</sup> and a man praying without tying belt.<sup>2821</sup>

(3364) Jābir b. 'Abd Allah said : The Apostle of Allah (may peace be upon him) forbade the sale of fruits until they are ripened (*tushqīḥah*). He was asked : What do you mean by their ripening (*ishqāḥ*)? He replied : They become red or yellow, and they are eaten.

(3365) Anas said : The Prophet (may peace be upon him) forbade the sale of grapes till they became black and the sale of grain till it had become hard.

(3366) Yūnus said : I asked Abū al-Zinād about the sale of fruits before they were clearly in good condition, and what was said about it. He replied : 'Urwah b. al-Zubair reports a tradition from Sahl b. Abī Hathmah on the authority of Zaid b. Thābit who said : The people used to sell fruits before they were clearly in good condition. When the people cut off the fruits, and were demanded to pay the price, the

2817. The Prophet (may peace be upon him) forbade all such transactions as they involve hazard, risk or chance (*gharar*). If a man purchases fruits before they are in good condition, but still are in their embryonic stage, there is a risk of their loss by some blight or accident. In this case, the purchaser will be the loser. It is, therefore, necessary to purchase fruits when they begin to ripen and there remains no risk of their loss by any disease or baneful influence.

2818. The transaction which involves chance for risk is forbidden. The Prophet (may peace be upon him) therefore, emphasised to buy such fruits as were ripening and were safe from any blight.

2819. He forbade selling the booty before its division because a man is allowed to buy or sell a thing without owning and taking it into possession. One must take possession of it and then sell it.

2820. There is a risk of the spoil of fruits if they are purchased before ripening. Hence it is forbidden to purchase fruits before they are in a good condition.

2821. If there is a risk of showing of private body, it is necessary to tie the belt and then one may pray.



buyer said : The fruits have been smitten by *dumān*, *qushām* and *murād*<sup>2822</sup> fruit diseases on which they used to dispute. When their disputes which were brought to the Prophet (may peace be upon him) increased, the Apostle of Allah (may peace be upon him) said to them as an advice : No, do not sell fruits till they are in good condition, due to a large number of their disputes and differences.<sup>2823</sup>

-(3367) Jābir said : The Prophet (may peace be upon him) forbade the sale of fruits till they were clearly in good condition, and (ordered that) they should not be sold but for dīnār or dirham except 'arāyā.

## Chapter 1269

### SELLING FRUITS YEARS AHEAD

(3368) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) forbade selling fruits years ahead, and commanded that unforeseen loss be remitted in respect of what is affected by blight.<sup>2824</sup>

Abū Dāwūd said : The attribution of the tradition regarding the effect of blight in one-third of the produce to the Prophet (may peace be upon him) is not correct. This is the opinion of the people of Medina.<sup>2825</sup>

(3369) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) forbade the sale of fruits for a number of years. One of the two narrators (Abū al-Zubair and Sa'īd b. Minā') mentioned the words "sale for years" (*bai' al-sinīn* instead of *al-mu'āwamah*).

2822. These are the diseases of palm-trees. They have been explained in Lane's *Arabic-English Lexicon* as follows : *Dumān* ; rottenness and blackness of a palm-tree when it splits ; corruptness of fruits, infection in spadix of a palm-tree so that it becomes black before it attains to maturity, or before it is facundated. *Qushām* : spoiling of unripe dates when they are green and small before they become red or yellow. *Murād* : A disease or blight or the like which affects fruits (dates) and destroys them.

2823. The Prophet (may peace be upon him) stopped the practice of selling raw fruits that were likely to be destroyed by any disease or blight. This also gave rise to disputes among the people.

2824. As the sale of fruits years ahead is a sale of a non-existent thing, it is prohibited. Moreover, the Prophet (may peace be upon him) commanded to remit the loss caused by blight or any plant disease.

2825. The people of Medina, like Mālik and others, hold that if a third of the produce is affected by blight, it belongs to the buyer. But if it exceeds a third of the produce, it belongs to the seller. In support of this view no sound tradition has been narrated from the Prophet (may peace be upon him).

## Chapter 1270

## ALEATORY CONTRACTS OF SALE

(3370) Abū Hurairah said: The Prophet (may peace be upon him) forbade the type of sale which involves risk<sup>2826</sup> (or uncertainty) and a transaction determined by throwing stones.<sup>2827</sup>

(3371) Abū Sa'īd al-Khudrī said: The Prophet (may peace be upon him) forbade two types of business transactions and two ways of dressing. The two types of business transactions are *mulḍamah*<sup>2828</sup> and *munābadhah*.<sup>2829</sup> As regards the two ways of dressing, they are the wrapping of the *ṣammā'*,<sup>2830</sup> and that when a man wraps himself up in a single garment while sitting in such a way that he does not cover his private parts or there is no garment on his private parts.

(3372) The tradition mentioned above has also been reported by Abū Sa'īd al-Khudrī from the Prophet (may peace be upon him) through a different chain of narrators. This version adds: "Wearing the *ṣammā'* means that a man puts his garment over his left shoulder and keeps his right side uncovered. *Munābadhah*<sup>2831</sup> means

2826. *Gharar*: al-Khaṭṭābī says: *Gharar* means a thing about which a man has no knowledge, and that which is hidden from him. It has been derived from the Arabic idiom, 'I folded the cloth on its first fold.' This term applies to the sale of an object which is obscure or over which a man has no control or is uncertain. The Prophet (may peace be upon him) has forbidden all aleatory contracts of sale to save property from wastage and to put an end to disputes among the people. *Gharar* literally means risk, hazards, chance, deception. There are many forms of aleatory transactions. It may include such items as selling a runaway slave, or fish in the water which has not been caught.

2827. Explaining the term *bai' al-ḥaṣḍī*, al-Nawawī says: It has three explanations: first, for instance, one says: I sell you one of these clothes on which the stone falls which I am throwing; or I sell you the land from here up to the point where the stone which I throw reaches; secondly, I sell you this object on condition that you have option till I throw this stone. Thirdly, if I strike this cloth by throwing a stone to it, that is sold to you for such and such price. All these forms of sale involve uncertainty. Hence the Prophet (may peace be upon him) forbade them. These forms of sale were prevalent in pre-Islamic times ('*Awn al-Ma'būd*, III, 262).

2828. According to a tradition transmitted by al-Bukhārī and Muslim, *mulḍamah* means that a man touches another's garment with his garment, whether at night or by day, without turning it over any more than that involves.

2829. *Munābadhah* means that a man throws his garment to another and the other throws his garment, thus confirming their contract without inspection or mutual agreement.

2830. *Ṣammā'* means that a man puts his garment over one of his shoulders so that one of his sides appears uncovered.

2831. *Munābadhah* has also been explained in a tradition recorded in *Sunan al-Nasā'i*. It means that a man says: I shall throw what I have and you will throw what you have, so that each of them may buy the article from each other. But none of them knows what the other has with him ('*Awn al-Ma'būd*, III, 263).

that a man says (to another): If I throw this garment to you, the sale will be certain. *Mulāmasah*<sup>2832</sup> means that a man touches it (another's garment) with his hand and neither he unfolds it nor turns it over. When he touches it, the sale becomes binding.

(3373) The tradition mentioned above has also been transmitted by Abū Sa'īd al-Khudrī through a different chain of narrators from the Apostle of Allah (may peace be upon him) to the same effect as narrated by both Sufyān and 'Abd al-Razzāq.

(3374) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) forbade the transaction called *ḥabal al-ḥabalah*.<sup>2833</sup>

(3375) A similar tradition has also been narrated by Ibn 'Umar from the Prophet (may peace be upon him) through a different chain of transmitters. He said: *Ḥabal al-ḥabalah*<sup>2834</sup> means that a she-camel delivers an offspring and then the offspring which it delivers becomes pregnant.

## Chapter 127/1

### CONTRACT OF A FORCED PERSON

(3376) 'Alī b. Abī Ṭālib said: A time is certainly coming to mankind when people will bite each other and a rich man will hold fast what he has in his possession (i.e. his property), though he was not commanded for that. Allah, Most High, said: "And do not forget liberality between yourselves."<sup>2835</sup> The men who are forced will contract

2832. *Mulāmasah* has been explained in a tradition recorded by al-Nasā'ī as follows: A man says to another man: I sell my garment to you for your garment, and none of them sees the garment, but he touches it with his hand. The business contract is thus concluded.

It may be noted that all these forms of sale involve uncertainty and hazard. Hence the Prophet (may peace be upon him) prohibited them ('*Awn al-Ma'būd*, III, 263).

2833. This form of sale transactions was prevalent in pre-Islamic days. This means that two parties concluded a contract whereby a man bought a she camel which was to be the offspring of a she-camel, which was still in mother's womb ('*Awn al-Ma'būd*, III, 263).

2834. This term has been explained in various ways: First: the seller says to the buyer: I sold this article for a price to be paid later when this she-camel delivers an offspring and the she-camel which it delivers becomes pregnant. This form of sale is prohibited, for the period fixed for payment is obscure. Second, the seller says to the buyer: When this she-camel delivers an offspring and then the offspring which it delivers becomes pregnant and delivers an offspring, I sell you that offspring presently. Both these forms of sale are forbidden. In the former case the period is unknown and in the latter case the object is unknown ('*Awn al-Ma'būd*, III, 263).

2835. Qur'an, ii. 237.

sale while the Prophet (may peace be upon him) forbade forced contract,<sup>2836</sup> one which involves some uncertainty, and the sale of fruit before it is ripe.

### Chapter 1272

#### PARTNERSHIP

(3377) Abū Hurairah reported the Apostle of Allah (may peace be upon him) having said: Allah, Most High, says: "I make a third with two partners as long as one of them does not cheat the other, but when he cheats him, I depart from them."<sup>2837</sup>

### Chapter 1273

#### ON A SELLING AGENT WHO OPPOSES THE CLIENT

(3378) 'Urwah b. Abī al-Ja'd al-Bāriqī said that the Prophet (may peace be upon him) gave him a dīnār to buy a sacrificial animal or a sheep. He bought two sheep, sold one of them for a dīnār, and brought him a sheep and dīnār. So he invoked a blessing on him in his business dealing, and he was such that if had he bought dust he would have made a profit from it.<sup>2838</sup>

2836. Forced contract may be of two kinds: First, one is forced to sell one's goods under duress to another party. This sort of transaction is invalid. Second, one is forced to sell one's goods under certain pressing need, say debt or liabilities. In this case it is better that the people should help him and give him loan to fulfil his need. One should not sell one's property under the pressure of adverse circumstances; the people should not take advantage of his helplessness (*'Awn al-Ma'būd*, III, 264).

2837. Allah being a third partner means that He provides blessing, abundance and prosperity in the transaction of those partners who conduct their business honestly and sincerely. They do not cheat one another and do business with full mutual reliance and cooperation. But when they cheat each other and become selfish and dishonest, Divine help and blessing from Allah are withdrawn (*'Awn al-Ma'būd*, III, 264).

2838. This is not the case of *mudārabah* (sleeping partnership) as Abū Dāwūd has captioned it. *Mudārabah* means a partnership in which one party invests capital and the other works as an agent for it. Both of them share the profit or loss equally. In this tradition it is obvious that the Prophet (may peace be upon him) only asked 'Urwah to buy a sheep for a dīnār for him. He bought two and earned a profit of one dīnār by selling one of them. But 'Urwah had done all this business himself without any instructions from the Prophet (may peace be upon him). He was not a partner with the Prophet (may peace be upon him) in any business. Hence this tradition cannot be applied to the case of partnership.

There is a difference of opinion amongst scholars as to a partner who opposes the instructions of the partner who invests money. Ibn 'Umar observes that the profit belongs to the man who invests money. Abū Qilābah, Nāfi', Aḥmad b. Ḥanbal and Ishāq hold that the agent will be responsible for

(3379) The tradition mentioned above has also been transmitted by 'Urwat al-Bāriqī through a different chain of narrators. The wordings of this version are different from those of the previous one.

(3380) Ḥakīm b. Ḥizām said that the Apostle of Allah (may peace be upon him) sent with him a dīnār to buy a sacrificial animal for him. He bought a sheep for a dīnār, sold it for two and then returned and bought a sacrificial animal for a dīnār for him and brought the (extra) dīnār to the Prophet (may peace be upon him). The Prophet (may peace be upon him) gave it as alms (*ṣadaqah*) and invoked blessing on him in his trading.<sup>2839</sup>

### Chapter 1274

#### ON A MAN WHO CONDUCTS BUSINESS WITH THE CAPITAL OF ANOTHER MAN WITHOUT HIS PERMISSION

(3381) 'Abd Allah b. 'Umar said : I heard the Apostle of Allah (may peace be upon him) say : If any of you can become like the man who had a faraq<sup>2840</sup> of rice, he should become like him. They (the people) asked : Who is the man who had a faraq of rice with him, Apostle of Allah ? Thereupon he narrated the story of the cave when a hillock fell on them (three persons), each of them said : Mention any best work of yours. The narrator said : The third of them said : O Allah, you know that I took a hireling for a faraq of rice. When the evening came, I presented to him his due (i.e. his wages). But he refused to take it and went away. I then cultivated it until I amassed cows and their herdsmen for him. He then met me and said : Give me my

money and the profit will go to the party which invests money. Abū Ḥanīfah maintains that the profit will go to the agent who may give it in alms. He is also responsible for the capital. Al-Auzā'i holds that the profit will go to the agent, he should give it in charity as he has opposed the instructions of his client. The profit is not worthy of any of them. Al-Shāfi'i says that if the agent opposes the instructions of his client in a business, one should look into the nature of his dealing. If he buys an object for which he was not ordered to buy for a particular good provided by the client, the transaction is null and void. But if he buys it not for a particular good of the client, then the object he bought belongs to the agent, and he will be responsible for repaying the money he spent against the wishes of the man who invests money (*'Awn al-Ma'būd*, III, 265).

2839. Both these traditions narrated by 'Urwat al-Bāriqī and Ḥakīm b. Ḥizām are weak in respect of their chains. In the tradition of Ḥakīm b. Ḥizām there is a narrator who is unknown. The tradition narrated by 'Urwah contains in its chain a narrator named Shabīb b. Gharqadah. He says that this tradition has been transmitted to him by a tribe (*ḥayy*) and not by one man from 'Urwah. Thus, according to the principles of the authenticity of a tradition, it becomes doubtful. The tradition of 'Urwah has been narrated by al-Tirmidhī through a different chain of narrators on the authority of Abū Labīd. This chain is sound and reliable (*'Awn al-Ma'būd*, III, 266).

2840. Faraq is a measure of capacity used in Medina. It had the capacity of three ṣā's or sixteen rotls.



dues. I said (to him) : Go to those cows and their herdsmen and take them all. He went and drove them away.<sup>2841</sup>

### Chapter 1275

#### PARTNERSHIP IN WAGES AND LABOUR WITHOUT INVESTING ANY CAPITAL

(3382) 'Abd Allah (b. Mas'ūd) said : I, 'Ammār, and Sa'd became partners in what we would receive on the day of Badr. Sa'd then brought two prisoners, but I and 'Ammār did not bring anything.<sup>2842</sup>

### Chapter 1276

#### MUZĀRA'AH<sup>2843</sup> (SHARECROPPING)

(3383) 'Amr b. Dīnār said : I heard Ibn 'Umar say : We did not see any harm in sharecropping till I heard Rāfi' b. Khadīj say : The Apostle of Allah (may peace be upon him) has forbidden it. So I mentioned it to Tāwūs. He said : Ibn 'Abbās told me that the Apostle of Allah (may peace be upon him) had not forbidden it, but said : It is better for one of you to lend to his brother than to take a prescribed sum from him.<sup>2844</sup>

2841. This shows that a man can conduct business with the goods of another man for his benefit and well-wishing without his permission. But it depends on circumstances. This also shows that the dealing of an authorised agent (*fuḍūlī*) is valid. This is held by Mālik. But it is not valid according to al-Shāfi'. According to some scholars, it depends on the permission of the owner of the goods. If he allows, it is valid, otherwise not (*Awn al-Ma'būd*, III, 266).

2842. This tradition shows that it is permissible to have partnership in labour and wages without investing capital. This is the partnership of labour. In this business each partner performs the work assigned to him for other partners and then they divide the wages among themselves. Mālik and Abū Ḥanīfah validate this kind of partnership on condition of the unity of work. Al-Shāfi' maintains that partnership in labour is invalid because each of the partners is distinguished from the other by his body (labour) and wages. Labour and wages are peculiar to each of them separately. They cannot be combined together. For instance, if two persons become partners in their cattle which are distinguished from each other to share in milk and offspring, the partnership is void (*Awn al-Ma'būd*, III, 267).

2843. *Muzāra'ah* means sharecropping, metayage, lease of land for a certain part of its produce, or tilling it in return for some of the produce as agreed with the peasant.

2844. There is a difference of opinion on the legality of *muzāra'ah* amongst scholars. Aḥmad b. Ḥanbal, Ibn Abī Lailā, Abū Yūsuf, Muḥammad b. al-Ḥasan ibn al-Musayyab, Ibn Sirīn, al-Zuhrī, 'Umar b. 'Abd al-'Azīz validate the contract of *muzāra'ah*. Aḥmad b. Ḥanbal says that the tradition transmitted by Rāfi' b. Khadīj is weak, for it has been narrated in different versions from him. Sometimes he says that he heard this tradition directly from the Prophet (may peace be upon him).

(3384) 'Urwah b. al-Zubair said that Zaid b. Thābit said : May Allah forgive Rāfi' b. Khadīj. I swear by Allah, I have more knowledge of *Ḥadīth* than him. Two person of the *Anṣār* (according to the version of Musaddad) came to him who were disputing with each other. The Apostle of Allah (may peace be upon him) said : If this is your position, then do not lease the agricultural land. The version of Musaddad has : So he (Rāfi' b. Khadīj) heard his statement : Do not lease agricultural lands.<sup>2845</sup>

(3385) Sa'd said : We used to lease land for what grew by the streamlets and for what was watered from them. The Apostle of Allah (may peace be upon him) forbade us to do that, and commanded us to lease it for gold or silver.<sup>2846</sup>

(3386) Ḥanzlah b. Qais al-Anṣārī said : I asked Rāfi' b. Khadīj about the lease of land for gold and silver (i.e. for *dīnārs* and *dirhams*). There is no harm in it, for the people used to let out land in the time of the Apostle of Allah (may peace be upon him) for what grew by the current of water and at the banks of streamlets and at the places of cultivation. So sometimes this (portion) perished and that (portion) was saved, and sometimes this remained intact and that perished. There was no (form of) lease among the people except this. Therefore, he forbade it. But if there is something which is secure and known, then there is no harm in it.<sup>2847</sup> The tradition of

At other times he says that this tradition has been transmitted to him by his paternal uncles from the Prophet (may peace be upon him). Aḥmad thinks that the contract of cultivating lands of Khaibar concluded by the Prophet (may peace be upon him) with the Jews was *muzāra'ah*. But Abū Ḥanīfah; Mālik and al-Shāfi'ī invalidate the contract of *muzāra'ah* on the basis of the tradition of Rāfi' b. Khadīj. One can find a full dress discussion of this problem in the treatise written by Muḥammad b. Ishāq b. Khuzaimah (*'Awn al-Ma'būd*, III, 267).

2845 Rāfi' b. Khadīj generalised the prohibition of the Prophet (may peace be upon him) without mentioning the condition imposed by him. In fact, he prohibited *muzā'arah* in the case of dispute and not in normal condition. Had this tradition reached him, he would have changed his opinion. When Ḥanzlah b. Qais asked Rāfi' about the prohibition of *muzāra'ah*, he said : We do not prohibit the lease of land if payment is made in *dirhams* and *dīnārs*. It may be noted that there is no disagreement on the validity of *muzāra'ah* against payment of money (*'Awn al-Ma'būd*, III, 268).

2846. As the part of produce was not known definitely and disputes arose about these contracts, the Prophet (may peace be upon him) forbade them. He allowed to lease land for money.

2847. The objection to such a contract is that one cannot guarantee what a particular piece of land will produce. In this tradition Rāfi' b. Khadīj has pointed out the reason for prohibition of *muzāra'ah*. It was not known which portion would produce a crop and which not. Further, in the time of the Prophet (may peace be upon him) people used to impose improper conditions by making exceptions. The crop grew at the bank of the water and by the sides of streamlets where crops grew without watering them by wheel. This crop belonged to the owner of the land. The peasant did not know from what portion he would receive the crop. Moreover, sometimes the crop at the bank of water at the sides of streamlets was saved and the rest of the crop perished. This sort of contract involved risk and hazard (*gharar*). Therefore, the Prophet (may peace be upon him) prohibited it (*'Awn al-Ma'būd*, III, 268).

Ibrāhīm is more perfect. Qutaibah said : "from Ḥaṇṣalah on the authority of Rāfi'".

Abū Dāwūd said : A similar tradition has been transmitted by Yahyā b. Sa'īd from Ḥaṇṣalah.

(3387) Ḥaṇṣalah b. Qais said that he asked Rāfi' b. Khadij about the lease of land. He replied : The Apostle of Allah (may peace be upon him) forbade the leasing of land. I asked : (Did he forbid) for gold and silver (i.e. dīnārs and dirhams) ? He replied : If it is against gold and silver, then there is no harm in it.

### Chapter 1277

#### PROHIBITION OF SHARECROPPING

(3388) Sālim b. 'Abd Allah b. 'Umar said : Ibn 'Umar used to let out his land till it reached him that Rāfi' b. Khadij al-Anṣārī narrated that the Apostle of Allah (may peace be upon him) forbade to let out land. So 'Abd Allah (b. 'Umar) said : Ibn Khadij, what do you narrate from the Apostle of Allah (may peace be upon him) about leasing the land ? Rāfi' replied to 'Abd Allah b. 'Umar : I heard both of my uncles who were present in the battle of Badr say, and they narrated it to the members of the family, that the Apostle of Allah (may peace be upon him) forbade leasing land. 'Abd Allah said : I swear by Allah, I knew that land was leased in the time of the Apostle of Allah (may peace be upon him). 'Abd Allah then feared that the Apostle of Allah (may peace be upon him) might have created something new in that matter, so he gave up leasing land.<sup>2848</sup>

Abū Dāwūd said : This tradition has also been transmitted by Ayyūb, 'Ubaid Allah, Kathīr b. Farqad, Mālik from Nāfi' on the authority of Rāfi' from the Prophet (may peace be upon him). It has also been transmitted by al-Auzā'ī from Ḥafṣ b. 'Inān al-Ḥanaḥī from Nāfi' from Rāfi' who said : I heard the Apostle of Allah (may peace be upon him) say : Similarly, it has been transmitted by Zaid b. Abī Unaisah from al-Ḥakam from Nāfi' from Ibn 'Umar that he went to Rāfi' and asked : Have you heard the Apostle of Allah (may peace be upon him) say ? He replied : Yes. Similarly, it has also been transmitted by 'Ikrimah b. 'Ammār from Abū al-Najāshī, from Rāfi' b. Khadij who said : I heard the Prophet (may peace be upon him) say. It has also been transmitted by al-Auzā'ī from Abū al-Najāshī from Rāfi' b. Khadij from his uncle Ḍuhair b. Rāfi' from the Prophet (may peace be upon him).

Abū Dāwūd said : The name of Abū al-Najāshī is 'Aṭā' b. Ṣuḥaib.

(3389) Rāfi' b. Khadij said : We used to employ people to till land for a share of

<sup>2848</sup> To let out land against the produce of a specified portion is prohibited, or on a condition not allowed by the *Shari'ah*. The Prophet (may peace be upon him) forbade this transaction as the peasant was generally the loser. But it is permissible to let out land against money.

its produce. He then maintained that one of his uncles came to him and said : The Apostle of Allah (may peace be upon him) forbade us from a work which was beneficial to us. But obedience to Allah and His Apostle (may peace be upon him) is more beneficial to us. We asked : What is that ? He said : The Apostle of Allah (may peace be upon him) said : If anyone has land, he should cultivate it, or lend it to his brother for cultivation. He should not rent it for a third and a quarter (of the produce) or for specified amount of produce.

(3390) Ayyūb said : Ya'la b. Ḥakīm wrote to me : I heard Sulaimān b. Yasār narrating the tradition to the same effect as narrated by 'Ubaid Allah and through the same chain.<sup>2849</sup>

(3391) Rāfi' b. Khadīj said : Abū Rāfi' came to us from the Apostle of Allah (may peace be upon him) and said : The Apostle of Allah (may peace be upon him) forbade us from a work which benefited us ; but obedience to Allah and His Apostle (may peace be upon him) is more beneficial to us. He forbade that one of us cultivates land except the one which he owns or the land which a man lends him (to cultivate).<sup>2850</sup>

(3392) Usaid b. Zuhair said : Rāfi' b. Khadīj came to us and said : The Apostle of Allah (may peace be upon him) forbids you from a work which is beneficial to you ; and obedience to Allah and His Prophet (may peace be upon him) is more beneficial to you. The Apostle of Allah (may peace be upon him) forbids you from renting land for a share of its produce<sup>2851</sup> and he said : If anyone is not in need of his land he should lend it to his brother or leave it.

Abū Dāwūd said : Shu'bah and Mufaḍḍal b. Muhalhal have narrated it from Manṣūr in a similar way. Shu'bah said (in his version) : Usaid, nephew of Rāfi' b. Khadīj.

(3393) Abū Ja'far al-Khaṭmī said : My uncle sent me and his slave to Sa'īd b. al-Musayyab. We said to him, there is something which has reached us about share-cropping. He replied : Ibn 'Umar did not see any harm in it until a tradition reached him from Rāfi' b. Khadīj. He then came to him and Rāfi' told him that the Apostle of Allah (may peace be upon him) came to Banū Hārithah and saw crop in the land of Zuhair. He said : What an excellent crop of Zuhair is ! They said : It does not belong to Zuhair. He asked : Is this not the land of Zuhair ? They said, Yes, but the crop belongs to so-and-so. He said : Take your crop and give him the wages. Rāfi' said : We took our crop and gave him the wages. Sa'īd (b. al-Musayyab) said : Lend

<sup>2849</sup>. This refers to tradition No. 3389.

<sup>2850</sup>. It is permissible to lend to a Muslim one's land for cultivation without specifying any portion of land or a share of its produce. It is also allowed to employ people to till one's land against money or wages.

<sup>2851</sup>. The Arabic word is *haql* referring to renting of land for a share of its produce.

your brother or employ him for dirhams.

(3394) Rāfi' b. Khadīj said : The Apostle of Allah (may peace be upon him) forbade *muḥāqalah*<sup>2852</sup> and *muzābanah*.<sup>2853</sup> Those who cultivate land are three : a man who has (his own) land and he tills it : a man who has been lent land and he tills the one lent to him ; a man who employs another man to till land against gold (dīnārs) or silver (dirhams).<sup>2854</sup>

Abū Dāwūd said : I read out (this tradition) to Sa'īd b. Ya'qūb al-Ṭāliqānī, and I said to him : Ibn al-Mubārak transmitted (this tradition) to you from Sa'īd Abī Shujā' who said : 'Uthmān<sup>2855</sup> b. Sahl b. Rāfi' b. Khadīj narrated it to me saying : I was an orphan being nourished under the guardianship of Rāfi' b. Khadīj and I performed *Ḥajj* with him. My brother 'Imrān b. Sahl then came to me and said : We rented our land to so-and-so for two hundred dirhams. He said : Leave it, for the Prophet (may peace be upon him) forbade renting land.

(3395) Rāfi' b. Khadīj said that he cultivated land. The Prophet (may peace be upon him) passed him when he was watering it. So he asked him : To whom does the crop belong, and to whom does the land belong ? He replied : The crop is mine for my seed and labour. The half (of the crop) is mine and the half for so-and-so. He said : You conducted usurious transaction. Return the land to its owner and take your wages and cost.<sup>2856</sup>

## Chapter 1278

### CULTIVATING LAND WITHOUT PERMISSION OF ITS OWNER

(3396) Rāfi' b. Khadīj reported the Apostle of Allah (may peace be upon him)

2852. The term *muḥāqalah* has been explained in various ways : to sell the harvest of wheat for dried wheat ; to rent land for wheat ; to rent land for a specified share of produce or for a specified portion of land ; to sell the crop before its ripening ('*Awn al-Ma'būd*, III, 270).

2853 *Muzābanah* means to sell dates on palm-trees for dried dates. "

2854. This is some misunderstanding on the part of the transmitter. Renting land for money is allowed.

2855. What is correct is 'Īsā b. Sahl as recorded by al-Nasā'ī in his *Sunan* ('*Awn al-Ma'būd*, III, 270).

2856. About the traditions transmitted by Rāfi' b. Khadīj it is said that they are confused. Hence it may be taken as evidence for the prohibition of sharecropping. The traditionists, instead, take the transaction of Khaibar conducted by the Prophet (may peace be upon him) with the Jews as an evidence for the validity of sharecropping. This is held by Abū Yūsuf, Muḥammad b. al-Ḥasan, and Aḥmad b. Ḥanbal and a large number of scholars. There are two explanations for the traditions of Rāfi' b. Khadīj offered by the exponents of *muzāra'ah* : First, the Prophet (may peace be upon him) prohibited renting land for the crop grown at the banks of streamlets or for a particular piece of land, or for a third and a quarter of the produce. Second, sharecropping is disapproved (*makrūh*) and not forbidden (*ḥarām*) ('*Awn al-Ma'būd*, III, 271).



as saying : If anyone sows in other peoples' land without their permission, he has no right to any of the crop, but he may have what it cost him.<sup>2857</sup>

### Chapter 1279

#### MUKHĀBARAH<sup>2858</sup> (RENTING LAND FOR A THIRD AND A QUARTER OF THE PRODUCE)

(3397) Jābir b. 'Abd Allah said : The Apostle of Allah (may peace be upon him) forbade *muḥāqalah*, *muzābanah*, *mukhābarah* and *mu'āwamah*.<sup>2859</sup> One of the two narrators from Hammād said the word *mu'āwamah*, and other said : "selling many years ahead". The agreed version then goes : and *thunyā*,<sup>2860</sup> but gave licence for 'arāyā.

(3398) Jābir b. 'Abd Allah said : The Apostle of Allah (may peace be upon him) forbade *muzābanah*, *muḥāqalah* and *thunyā* except it is known.<sup>2861</sup>

2857. This shows that if anyone usurps the land of another person, and cultivates it, the crop will belong to the owner of the land, and he will pay the cost. This view is held by Aḥmad b. Ḥanbal and Ishāq. The owner has the choice between giving him the cost of returning his crop. This is maintained by Abū 'Ubaid. Al-Shāfi'i and most of scholars hold that the owner of the land has the right to force the usurper to remove the crop from his land. The crop belongs to the owner of the seed in their opinion and he will pay the rent of the land. Aḥmad holds that if the crop remains there, it belongs to the owner of the land. If it is cut off, he will have to pay the rent of the land. Al-Khaṭṭābī says that this tradition is not sound according to the doctors of traditions. Al-Ḥasan b. Yaḥyā says that it is a rejected (*munkar*) and weak (*ḍa'if*) tradition. None except Sharīk has transmitted it from Abū Ishāq, and none narrated it from 'Aṭā' except Abū Ishāq, and 'Aṭā' did not hear traditions from Rāfi' b. Khadīj. Al-Bukhārī also looks upon this tradition as weak. When Aḥmad b. Ḥanbal was asked about the tradition of Rāfi' b. Khadīj, he said : There is confusion in the tradition of Rāfi', and Abū Ishāq added to it the words : "if anyone cultivates without his permission". No one other than him mentions these words ('*Awn al-Ma'būd*, III, 271-72).

2858. Al-Nawawī says that *mukhābarah* and *muzārah* both carry the same meaning. Both mean to rent land for a third or a quarter of the produce. But there is a little difference between them. In the case of *muzārah*, the owner of the land provides seed, while in the case of *mukhābarah*, the tenant provides seed. This view is held by the majority of Shāfi'i scholars ('*Awn al-Ma'būd*, III, 272).

2859. It means selling a year's harvest before the crop has grown, or selling fruit on the palm-trees before many years ahead.

2860. Exception of something from the sale transaction, the amount of which is not accurately known.

2861. The sale transaction is invalid if there is an exception of something the amount of which is not known. For instance, a man says : I sell this heap of corn to you except some of it, or these trees, sheep or clothes except some of them, the sale is not valid, for the exception is not known. But a man says : I sell these trees to you except three particular trees, already specified by him. In this case the sale is valid, for the thing excepted is known ('*Awn al-Ma'būd*, III, 272).

(3399) Jābir b. 'Abd Allah said : I heard the Apostle of Allah (may peace be upon him) say : If any of you does not leave *mukhābarah*, he should take notice of war from Allah and His Apostle (may peace be upon him).<sup>2862</sup>

(3400) Zaid b. Thābit said : The Apostle of Allah (may peace be upon him) forbade *mukhābarah*. I asked : What is *mukhābarah*? He replied : That you have the land (for cultivation) for half, a third, or a quarter (of the produce).

### Chapter 1280

#### **MUSĀQĀT<sup>2863</sup> (LEASE OF A FRUIT TREE OR AN ORCHARD FOR IRRIGATING, FECUNDATING AND PROTECTING FRUIT TREES FOR A CERTAIN SHARE OF THE FRUIT)**

(3401) Ibn 'Umar said : The Apostle of Allah (may peace be upon him) made an agreement with the people of Khaibar to work and cultivate in return for half of the fruits or produce.<sup>2864</sup>

(3402) Ibn 'Umar said : The Prophet (may peace be upon him) handed over to the Jews of Khaibar the palm-trees and the land of Khaibar on condition that they should employ what belonged to them in working on them, and that he should have half of the fruits.

(3403) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) conquered Khaibar, and stipulated that all the land, gold and silver would belong to him. The people of Khaibar said : We know the land more than you ; so give it to us on condition that you would have half of the produce and we would have the half. He then gave it to them on that condition. When the time of picking the fruits of the palm-trees came, he sent 'Abd Allah b. Rawāḥah to them, and he assessed the amount of the fruits of palm-trees. This is what the people of Medina call *kharṣ* (assessment).

2862. This is a serious threat for those who conduct the transaction of *mukhābarah*, i.e. share-cropping. One can lend one's land to a poor Muslim for cultivation or rent it against money.

2863. *Musāqāt* literally means to irrigate trees for fruits. It is like *muzārah*. The difference between the two is that the former applies to the orchard while the latter applies to the agricultural land. It means that the owner of a garden employs a man to irrigate or fecundate or protect the fruit trees for a certain share in the fruit. In *musāqāt* transaction one party owns the land and the other party works in the garden for a share in the fruit. It is tending palm-trees for some of the produce.

2864. Share in the fruits refers to *musāqāt* and share in the produce of the land refers to *muzārah*. This tradition indicates the validity of *musāqāt*. Mālik, al-Shāfi'i, Aḥmad, al-Thawri, al-Laith and all the traditionists and scholars allow *musāqāt* transaction. Abū Ḥanīfah maintains that *musāqāt* is not legal ; it is prohibited. But his disciples Abū Yūsuf and Muḥammad b. al-Ḥasan al-Shaibānī validate *musāqāt* transaction ('*Awn al-Ma'būd*, III, 273)

He used to say : In these palm-trees there is such-and-such amount (of produce). They would say : You assessed more to us, Ibn Rawāḥah (than the real amount). He would say : I first take the responsibility of assessing the fruits of the palm-trees and give you half of (the amount) I said. They would say : This is true, and on this (equity) stand the heavens and the earth. We agreed that we should take (the amount which) you said.

(3404) The tradition mentioned above has also been narrated by Ja'far b. Burqān through his chain and to the same effect. This version has : He said : He assessed, and after the words *kull ṣafarā' wa baiḍā'*, he said : that is, gold and silver will belong to him.

(3405) Miqsam said : When the Prophet (may peace be upon him) conquered Khaibar. He then narrated it like the tradition of Zaid (b. Abī al-Zarqā'). This version has : He then assessed the produce of the palm-trees and said : I take the job of picking the fruit myself, and I shall give you half of (the amount) I said.<sup>2865</sup>

### Chapter 1281

#### ASSESSMENT OF FRUIT ON PALM-TREES

(3406) 'Ā'ishah said : The Prophet (may peace be upon him) used to send 'Abd Allah b. Rawāḥah (to Khaibar), and he would assess the amount of dates when they began to ripen before they were eaten (by the Jews).<sup>2866</sup> He would then give choice to the Jews that they could have them (on their possession) by that assessment or could assign to them (Muslims) by that assignment, so that the (amount of) *zakāt* could be calculated before the fruit became eatable and distributed (among the people).<sup>2867</sup>

(3407) Jābir said : When Allah bestowed Khaibar on His Prophet (may peace be upon him) as *faī'* (as a result of conquest without fighting), the Apostle of Allah (may peace be upon him) allowed (them) to remain there as they were before, and appor-

2865. These traditions are the basis of the legality of *muṣāra'ah* and *mukhābarah*. They also indicate the lawfulness of *musāqāt* in fruit trees. The Prophet (may peace be upon him) employed the Jews of Khaibar to till the land for a share in produce. This practice continued till the regime of Abū Bakr. But 'Umar expelled them during his regime. Abū Ḥanīfah and Zufār disallow *musāqāt* contending that this is the lease of land for a non-existent or unknown thing. The exponents of *musāqāt* reply that *musāqāt* is permissible on the analogy of *mudārabah* (sleeping partnership), and the hiring of a thing (*ijārah*). In both these cases the usufruct is obscure ('*Awn al-Ma'būd*, III, 274).

2866. The Prophet (may peace be upon him) sent 'Abd Allah b. Rawāḥah to assess the amount of dates at the time when they were green on the trees and were not eatable by the Jews. If they ripened, the Jews would eat them, and pay half the amount of the remaining dates.

2867. It was necessary to assess the amount of dates as there was none to look after the palm-trees in Khaibar except the Jews. According to the agreement, the Jews had to give half of the total amount of fruit to the Muslims.

tioned it between him and them. He then sent 'Abd Allah b. Rawāḥah who assessed (the amount of dates) upon them.

(3408) Jābir b. 'Abd Allah said: Ibn Rawāḥah assessed them (the amount of dates) at forty thousand wasaqs;<sup>2868</sup> and when Ibn Rawāḥah gave them option, the Jews took the fruits in their possession and twenty thousand wasaqs of dates were due from them.<sup>2869</sup>

2868. A wasaq is equivalent to sixty ṣā's in measure or a camel-load of sixty ṣā's.

2869. These and other traditions indicate the legality of assessment in vineyards and palm-trees. Assessment is also allowed in agricultural produce. Al-Zurqānī says that assessment of fruits on trees was carried out to distinguish the revenue of *ṣahāt* from other revenues. Ibn 'Abd al-Barr observes: Assessment (*takhrīṣ*) of the standing crop in *musāqāt* is not valid according to the consensus of all scholars, because partners in *musāqāt* are legal claimants to the stipulated shares. These shares cannot be accurately apportioned unless fruits have actually ripened and become saleable, otherwise this would amount to a sale of illegal *musābanah*. Abū Ḥanīfah does not allow *musāqāt*, for it is an aleatory transaction. *Musāqāt*, according to Mālik, is valid in palm-trees, vineyards, olive trees. He also allows *musāqāt* in standing crop when the owner of the land is unable to irrigate the crop and work in the field himself. Al-Shāfi'ī maintains that *musāqāt* is illegal except in palm-trees and vineyards, for their fruits are clearly visible to the eye, as they hang separately in the trees. Ibn 'Abd al-Barr observes that this is not the correct reason, for there are many kinds of fruits which are also visible to the eye. The reason may be that *musāqāt* is permissible in those trees in which assessment is allowed. According to the *sunnaḥ*, assessment of fruits on the trees is allowed only in palm-trees and vineyards. As '*ariyyah*' is an exception, similarly *musāqāt* is an exception in palm-trees and vineyards as explicitly allowed in the traditions of the Prophet (may peace be upon him) ('*Awn al-Ma'būd*, III, 274-75). Cf Dr. Ziaul Haque, *Landlord and Peasant in Early Islam*, p. 65.

## XVII. KITĀB AL-IJĀRAH

### [ BOOK OF WAGES ]

#### Chapter 1282

#### WAGES OF A TEACHER

(3409) 'Ubādah b. al-Sāmit said: I taught some persons of the people of Ṣuffah<sup>2870</sup> writing and the Qur'ān. A man of them presented to me a bow. I said: It cannot be reckoned property; may I shoot with it in Allah's path? I must come to the Apostle of Allah (may peace be upon him) and ask him (about it). So I came to him and said: Apostle of Allah, one of those whom I have been teaching writing and the Qur'ān has presented me a bow, and as it cannot be reckoned property, may I shoot with it in Allah's path? He said: If you want to have a necklace of fire on you, accept it.<sup>2871</sup>

(3410) A similar tradition has also been transmitted by 'Ubādah b. al-Sāmit through a different chain of narrators, but the former tradition is more perfect. This version has: I said: What do you think about it, Apostle of Allah? He said: A live coal between your shoulders which you have put around your neck or hanged it.

2870. *Ahl al-Ṣuffah* were poor people who lived in the mosque of the Prophet (may peace be upon him) on a platform (*ṣuffah*). They lived on charity. They were engaged in receiving religious education. They found no time to earn their livelihood on account of their devotion to acquiring knowledge.

2871. There is a difference of opinion amongst scholars on taking wages for teaching the Qur'ān. According to Abū Ḥanīfah, al-Zuhri and Ishāq b. Rāḥwaih, it is forbidden to take wages for teaching the Qur'ān. Al-Ḥasan al-Baṣrī, Ibn Sirīn and al-Sha'bī maintain that it is allowed in case one does not stipulate such a condition before teaching the Qur'ān. 'Aṭā', Mālik, al-Shāfi'i and Abū Thawr hold that it is permissible absolutely. They contend that a man sought the hand of a woman in marriage, but he had no money to pay the dower. The Prophet (may peace be upon him) asked him to teach the woman the Qur'ān and that was reckoned as her dower. Some scholars observe that it depends on circumstances. If there are many people other than him who can teach the Qur'ān, he is allowed to take the wages. But if there is none except him, then he is not allowed to accept the wages (*'Awn al-Ma'būd*, III, 276).



## Chapter 1283

## WAGES OF PHYSICIANS

(3411) Abū Sa'īd al-Khudrī said: Some of the Companions of the Prophet (may peace be upon him) went on a journey. They encamped with a clan of the Arabs and sought hospitality from them, but they refused to provide them with any hospitality. The chief of the clan was stung by a scorpion or bitten by a snake. They gave him all sorts of treatment, but nothing gave him relief. One of them said: Would that you had gone to those people who encamped with you; some one of them might have something which could give relief to your companion. (So they went and) one of them said: Our chief has been stung by a scorpion or bitten by a snake. We administered all sorts of medicine but nothing gave him relief. Has any of you anything, i.e. charm, which gives healing to our companion. One of those people said: I shall apply charm; we sought hospitality from you, but you refused to entertain us. I am not going to apply charm until you give me some wages. So they offered them a number of sheep. He then came to him and recited *Fātiḥat al-Kitāb* and spat until he was cured as if he were set free from a bond. Thereafter they made payment of the wages as agreed by them. They said: Apportion (the wages). The man who applied the charm said: Do not do it until we come to the Apostle of Allah (may peace be upon him) and consult him. So they came to the Apostle of Allah (may peace be upon him) next morning and mentioned it to him. The Apostle of Allah (may peace be upon him) said: From where did you learn that it was a charm? You have done right. Give me a share along with you.<sup>2872</sup>

(3412) This tradition has also been transmitted by Abū Sa'īd al-Khudrī from the Prophet (may peace be upon him).

(3413) Khārijah b. al-Ṣalt quoted his paternal uncle as saying that he passed a clan (of the Arabs) who came to him and said: You have brought what is good from this man.<sup>2873</sup> Then they brought a lunatic in chains. He recited *Sūrat al-Fātiḥah* over him three days, morning and evening. When he finished, he collected his saliva and then spat it out, (he felt relief) as if he were set free from a bond. They gave him something (as wages). He then came to the Prophet (may peace be upon him) and

2872. This tradition shows that it is permissible to take wages for applying charm by reciting *Sūrat al-Fātiḥah* or medicine. Al Nawawī said: It is valid to take the charges for applying charm by reciting *al-Fātiḥah* or any other verse or prayer. It is undoubtedly lawful and there is no harm in it. Similarly, taking wages for teaching the *Qur'ān* is also permissible. This view is held by al-Shāfi'ī, Mālik, Aḥmad, Ishāq, Abū Thawr and some other scholars. But Abū Ḥanīfah disallows taking wages for teaching the *Qur'ān*. He, however, allows taking wages for applying charm by reciting *al-Fātiḥah* or some other prayer (*Awn al-Ma'būd*, III, 277).

2873. This refers to the Prophet (may peace be upon him).

mentioned it to him. The Apostle of Allah (may peace be upon him) said : Accept it, for by my life, some accept it for a worthless charm, but you have done so far a genuine one.

## Chapter 1284

### THE EARNINGS OF A CUPPER

(3414) Rāfi' b. Khadij reported the Apostle of Allah (may peace be upon him) as saying : The earnings of a cupper are impure,<sup>2874</sup> the price paid for a dog is impure,<sup>2875</sup> and the hire paid to a prostitute is impure.<sup>2876</sup>

(3415) Muhayyisah said that he asked permission of the Apostle of Allah (may peace be upon him) regarding hire of the cupper, but he forbade him. He kept on asking his permission, and at last he said to him : Feed your watering camel with it and feed your slave with it.<sup>2877</sup>

(3416) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) got himself cupped and gave the cupper his wages. Had he considered it impure, he would not have given it (wage) to him.

(3417) Anas b. Mālik said that Abū Ṭibah cupped the Apostle of Allah (may peace be upon him) and he ordered that a ṣā' of dates be given to him, also ordering his people to remit some of his dues.<sup>2878</sup>

2874. There is a difference of opinion amongst scholars about the earnings of a cupper. According to some, it is lawful and, according to others, it is unlawful. Some traditions indicate that the Prophet (may peace be upon him) allowed the cupper to earn. But this profession was considered mean and abominable. The word *khabith* in the tradition means abominable and not unlawful. The majority of scholars consider it lawful.

2875. This question is also disputed amongst scholars.

2876. The payment made to a prostitute for unlawful intercourse is unlawful by the consensus of opinion of scholars. Here the word *khabith* means unlawful ('*Awn al-Ma'būd*, III, 278).

2877. This shows that the earning of a cupper is lawful for a slave and for a free man. This is held by Aḥmad b. Ḥanbal and a group of scholars. One can spend it on one's slave and cattle or other animals.

2878. The name of Abū Ṭibah is Nāfi'. He was a slave of Banū Bayāḍah. It was the custom for a slave in Arabia to hand over to his master part of what he earned. Here the Prophet (may peace be upon him) suggests that the masters of Abū Ṭibah should reduce the amount they took from him. It is said that he used to pay three ṣā's to his masters. They reduced on ṣā' from the dues ('*Awn al-Ma'būd*, III, 279).

*Chapter 1285*

## EARNINGS OF SLAVE-GIRLS

(3418) Abū Hurairah said that the Apostle of Allah (may peace be upon him) forbade the earnings of slave-girls.<sup>2879</sup>

(3419) Ṭāriq b. 'Abd al-Rahmān al-Qarashī said: Rāfi' b. Rifā'ah came to a meeting of the *Anṣār* and said: The Prophet of Allah (may peace be upon him) forbade us (from some things) today, and he mentioned some things. He forbade the earning of a slave-girl except what she earned with her hand. He indicated (some things) with his fingers such as baking, spinning, and ginning.

(3420) Rāfi' b. Khadlġ said: The Apostle of Allah (may peace be upon him) forbade the earning of a slave-girl unless it is known from where it came.

*Chapter 1286*

## THE GIFT GIVEN TO A SOOTHSAYER

(3421) Abū Mas'ūd said: The Prophet (may peace be upon him) forbade the price paid for a dog, the hire paid to a prostitute, and the gift given to a soothsayer.<sup>2880</sup>

*Chapter 1287*

## TAKING HIRE FOR A STALLION'S COVERING

(3422) Ibn 'Umar said: The Apostle of Allah (may peace be upon him) forbade (taking hire for) a stallion's covering.<sup>2881</sup>

2879. The slave-girls in Arabia used to work and earn for their masters. Sometimes when they got no work, they resorted to prostitution. Sometimes it was not known from where they earned. Hence the Prophet (may peace be upon him) forbade such of their earnings whose source was not known. The earning of a slave-girl whose source is known is lawful (*'Awn al-Ma'būd*, III, 279).

2880. The soothsayers in Arabia used to predict for the future and to tell the people about their fate, secrets and other things not known to them. Their prophecies were based on conjecture or derived from information supplied by the devil. Hence the Prophet (may peace be upon him) forbade to consult the soothsayers and to give them gifts.

2881. It is forbidden to take hire for a stallion's covering, as this transaction is aleatory. But if a man lends the stallion to cover the female without asking any charges for its covering it is permissible. If a man who borrows a stallion presents something out of gratitude to the owner of the stallion, that can be accepted (*'Awn al-Ma'būd*, III, 280).

## Chapter 1288

## ON GOLDSMITHS

(3423) Abū Mājidah said : I cut the ear of a boy, or he cut my ear (the narrator is doubtful). Abū Bakr then came to us to perform *Ḥajj* and we got together with him. But he referred us to 'Umar b. al-Khaṭṭāb. 'Umar (b. al-Khaṭṭāb) said : This reached the extent of retaliation. Call a cupper to me so that he may retaliate. When the cupper was called, he ('Umar) said : I heard the Apostle of Allah (may peace be upon him) say : I gave a boy to my maternal aunt,<sup>2882</sup> and I hope that she will be blessed in respect of him. I said to her : Do not entrust him to a cupper, nor to a goldsmith, nor to a butcher.<sup>2883</sup>

Abū Dāwūd said : This tradition has also been transmitted by 'Abd al-A'lā from Ibn Ishāq who said : Abū Mājidah is a man of Banū Sahm narrating from 'Umar b. al-Khaṭṭāb.

(3424) A similar tradition has also been transmitted by Abū Mājidah al-Sahmī from 'Umar b. al-Khaṭṭāb through a different chain of narrators.

(3425) Abū Mājidah al-Sahmī quoted 'Umar b. al-Khaṭṭāb as saying : I heard the Prophet (may peace be upon him) say . . . narrating the tradition to the same effect.<sup>2884</sup>

## Chapter 1289

IF A SLAVE WHO POSSESSES PROPERTY IS SOLD, TO WHOM  
DOES THE PROPERTY BELONG ?

(3426) Ibn 'Umar reported the Prophet (may peace be upon him) as saying : If anyone buys a slave who possesses property, his property belongs to the seller unless

2882. Her name was Fākhtah daughter of 'Amr Zāhirīyyah.

2883. The Prophet (may peace be upon him) forbade her to teach the trades of a cupper, goldsmith and butcher. He did not like these professions since a cupper and butcher always remain smeared with blood, and a goldsmith deals with ornaments and purifies them from adulteration. In this dealing he sometimes deceives people and acts dishonestly. It is better to avoid such a profession.

2884. This tradition has been narrated by Abū Mājidah or Ibn Mājidah. The name of Abū Mājidah or Ibn Mājidah is 'Alī. He is obscure. He narrates traditions from 'Umar indirectly (*mursal*). A link is missing in the chain who directly narrates from 'Umar. It is also said that the *ḥunayyah* (surname) of 'Alī b. Mājidah might be Abū Mājidah. Both these traditions can thus be reconciled ('*Awn al Ma'būd*, III, 280).

the buyer makes a proviso.<sup>2885</sup> and if anyone buys palm-trees after they have been fecundated, the fruit belongs to the seller unless the buyer makes a proviso.<sup>2886</sup>

(3427) This tradition has also been narrated by 'Umar from the Apostle of Allah (may peace be upon him) through a different chain of narrators. It mentions only the sale of a slave. It has also been transmitted by Nāfi' on the authority of Ibn 'Umar from the Prophet (may peace be upon him) indicating only the sale of palm-trees.

Abū Dāwūd said: Al-Zuhrī and Nāfi' differed among themselves in four traditions. This is one<sup>2887</sup> of them.

(3428) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying: If anyone buys a slave who possesses property, his property belongs to the seller unless the buyer makes a proviso.

### Chapter 1290

#### GOING OUT OF THE CITY TO MEET MERCHANTS

(3429) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon

2885. If a master gives property in possession of his slave, and thereafter he is sold, the property belongs to the seller unless the buyer makes a proviso. This is held by Mālik and al-Shāfi'i according to his earlier opinion. Abū Ḥanīfah and al-Shāfi'i, according to his later opinion, hold that a slave cannot possess property. The property belongs to the master. When he sells the slave he sells only the slave. But when the buyer makes a proviso, it is valid, for the master sells both slave and property which is in his possession for the same price. This is permissible.

2886. If a palm-tree is fecundated, the fruit will not be a part of sale transaction but will remain in the possession of the seller. But if the palm-tree is not fecundated, the fruit will be included in the sale transaction and will belong to the buyer. This is held by the generality of scholars. But Abū Ḥanīfah and al-Auzā'i maintain that fruit will belong to the seller before the palm-tree has been fecundated and also after its fecundation. Ibn Abī Lailā maintains that the fruit will belong to the buyer unconditionally (*'Awn al-Ma'būd*, III, 281).

2887. Nāfi' and Sālim have narrated different versions of this tradition:

(1) Al-Zuhrī—Sālim—Ibn 'Umar from the Prophet (may peace be upon him): This version mentions only slave.

(2) Sufyān b. Ḥusain ... Ibn 'Umar—'Umar from the Prophet (may peace be upon him). This version also mentions only the slave.

(3) Mālik, al-Laith, Ayyūb—'Ubaid Allah b. 'Umar—Nāfi'—Ibn 'Umar. This version does not trace it to the Prophet (may peace be upon him) and it mentions only palm-trees.

(4) Mālik, al-Laith, Ayyūb—'Ubaid Allah b. 'Umar—Nāfi'—Ibn 'Umar—'Umar. This version is not traced to the Prophet (may peace be upon him) and it mentions only the slave. Muslim, al-Nasā'i and al-Dāraqutnī prefer the versions of Nāfi'. 'Alī b. al-Madīnī, al-Bukhārī and Ibn 'Abd al-Barr prefer the versions of Sālim. Al-Nasā'i narrates the version of Nāfi' tracing it to the Prophet (may peace be upon him) and mentioning both the slave and the palm-trees. But this is a misunderstanding on his part. 'Abd al-Razzāq has also narrated the version of Nāfi'. But he says that 'Umar's version mentions only the slave and not the palm-trees (*'Awn al-Ma'būd*, III, 2:1).



him) as saying : None of you must buy in opposition to one another ;<sup>2888</sup> and do not go out to meet the merchandise, (but one must wait) till it is brought down to the market.<sup>2889</sup>

(3430) Abū Hurairah said : Do not go out to meet what is being brought (to market for sale). If anyone does so and buys some of it, the owner of merchandise has the choice (of cancelling the deal) when it comes to the market.<sup>2890</sup>

Abū 'Alī said : I heard Abū Dāwūd say : Sufyān said : none of you must buy in opposition to one another ; that is he says : I have a better one for ten (dirhams).<sup>2891</sup>

### *Chapter 1291*

#### BIDDING AGAINST ONE ANOTHER

(3431) Abū Hurairah said : The Prophet (may peace be upon him) forbade to bid against one another.<sup>2892</sup>

### *Chapter 1292*

#### PROHIBITION OF SELLING GOODS BY TOWNSMAN FOR A MAN FROM THE DESERT

(3432) Ibn 'Abbās said : The Apostle of Allah (may peace be upon him) forbade a townsman to sell for a man from the desert. I asked : What do you mean by the selling of a townsman for a man from the desert ? He replied : He should not be a

2888. This shows that if a man is buying an article, another man should not buy it by offering higher price ; or a seller should not tell the buyer that the article he is purchasing is of bad quality. He can give him an article better than it for the price less than the one he is offering to another seller. When an agreement on the sale of an article is reached, one must not step in and offer a higher price.

2889. It was customary in Arabia that the people used to go outside the towns and meet the merchants who brought their goods to the towns. They deceived them about the price and rates of the goods in the market. They would buy the goods from them for the price lower than the current price in the city. Hence the Prophet (may peace be upon him) forbade this practice and gave option to the seller to cancel the deal.

2890. If the owner finds that he can have a higher price in the market, he has the right to cancel the deal made with the man who met him outside the city.

2891. If a man is buying a thing for eleven dirhams, another man should not say that he can give him a better one for ten dirhams.

2892. *Najsh*, It means that a man finds an article being auctioned. He offers a higher bid, but he has no intention of buying it. By this he only means that the bidders are instigated to offer higher bids. One may increase the bid if one intends to buy an object, and not to instigate others.

broker for him.<sup>2893</sup>

(3433) Anas b. Mālik reported the Prophet (may peace be upon him) as saying : A townsman must not sell for a man from the desert, even if he is his brother or father.

Abū Dāwūd said : Anas b. Mālik said : It was said : A townsman must not sell for a man from the desert. This phrase carries a broad meaning. It means that he (the townsman) must not sell anything for him or buy anything for him.

(3434) Sālim al-Makkī said that a bedouin told him that he brought a milch she-camel in the time of the Apostle of Allah. He alighted with Ṭalḥah b. 'Ubaid Allah (and wanted to sell his milch animal to him). He said : The Prophet (may peace be upon him) forbade a townsman to sell for a man from the desert. But go to the market and see who buys from you. Consult me thereafter, and then I shall ask you (to sell) or forbid you.<sup>2894</sup>

(3435) Jābir reported the Apostle of Allah (may peace be upon him) as saying : A townsman must not sell for a man from the desert ; and leave people alone, Allah will give them provision from one another.

### Chapter 1293

#### BUYING A SHEEP WHOSE UDDERS HAVE BEEN TIED UP<sup>2895</sup> TO GATHER THE MILK IN THEM, AND DISPLEASURE OF THE BUYER WITH SUCH A DEAL

(3436) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as

2893. A man from the desert brings his merchandise to sell it in the city at the current rate. A townsman tells him that he will serve as a broker for him and sell the goods at a higher price afterwards. A townsman should not do it. It is better that the man from the desert should sell his goods himself so that he may earn the profit. But it is remarkable that if a townsman sells for a man from the desert, the deal is valid. According to 'Aṭā', Mujāhid and Abū Ḥanīfah, this tradition has been abrogated. The deal is valid. Some Mālikī scholars hold that it is invalid. Some scholars take it as disapproved.

2894. Ṭalḥah did not want to serve him as a broker as prohibited by the Prophet (may peace be upon him).

2895. *Muṣarrāl* is a she-camel or sheep whose owner ties up its udders to gather the milk in them to show that it yields plenty of milk. It is a sort of deception. One should not do it. However, if a man buys such an animal, he has two courses open to him : he may keep it or return it with a ṣā' of dates for the milk he has used at home. This view is held by Mālik, al-Shāfi'ī, Aḥmad b. Ḥanbal and most of scholars. They follow this tradition literally. The Ḥanafīs do not follow it literally. According to them, the buyer should return the price of the milk and not a ṣā' of dates, for logically a ṣā' of dates cannot be the price of milk which may vary in quantity in different cases. It should be noted that no logical reasoning (*qiyās*) is valid in the presence of the text (*naṣṣ*) ('*Awn al-Ma'būd*, III, 284).

saying: Do not go out to meet riders to conduct business with them; none of you must buy in opposition to one another; and do not tie up the udders of camels and sheep, for he who buys them after that has been done has two courses open to him after milking them: he may keep them if he is pleased with them, or he may return them along with a *ṣā'* of dates if he is displeased with them.

(3437) Abū Hurairah reported the Prophet (may peace be upon him) as saying: If anyone buys a sheep whose udders have been tied up, he has option for three days: he may return it if he desires with a *ṣā'* of any grain, not (necessarily) wheat.<sup>2896</sup>

(3438) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: If anyone buys sheep or goat whose udders have been tied up and he milked it, he may keep it if he is pleased with it, or he may return it if he is displeased with it. There is one *ṣā'* of dates (which he must give to the seller) for milking it.

(3439) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon him) as saying: If anyone buys a sheep whose udders have been tied up, he has option for three days (for decision). If he returns it, he should return with it wheat equal to its milk or double of it.<sup>2897</sup>

## Chapter 1294

### PROHIBITION OF HOARDING

(3440) Ma'mar b. Abī Ma'mar, one of the children of 'Adī b. Ka'b, reported the Apostle of Allah (may peace be upon him) as saying: No one withholds goods till their price rises but a sinner.<sup>2898</sup> I said to Sa'id (b. al-Musayyab): You withhold goods till their price rises. He said: Ma'mar used to withhold goods till their price rose.<sup>2899</sup>

Abū Dāwūd said: I asked Aḥmad (b. Hanbal): What is hoarding (*ḥukrah*)? He

2896. As wheat was costly in Arabia, people could not afford it. The Prophet (may peace be upon him) gave them choice to give any grain or dates and not necessarily wheat.

2897. This is a weak tradition. A narrator in its chain is unreliable. The previous traditions which speak of one *ṣā'* of dates are sound and authentic. Preference will be given to these traditions over this tradition ('*Awā al-Ma'būd*, III, 285).

2898. This shows that hoarding of goods till their price rises is prohibited. Mālik and al-Thawrī disapprove of hoarding of foodgrains and similar other goods. Mālik prohibited hoarding of linen, wool and oil. But he thinks that fruit does not fall within the category of hoarding. Aḥmad b. Hanbal maintains that hoarding is confined to foodgrains only, for they are the sustenance of the people. He says that hoarding is prohibited in cities like Mecca and Medina for the ships approach them. Al-Ḥasan and al-Auzā'ī think that if anyone carries foodgrains from one city to another waiting for rise of price, he is not a hoarder.

2899. There are many categories of goods. Hoarding of some categories is prohibited, and of some permitted, as interpreted by Aḥmad b. Hanbal. It is said that both of them used to hoard olive oil. Hoarding is prohibited in those things which are necessities of life like foodgrains.

replied : That on which people live.<sup>2900</sup>

Abū Dāwūd said : Al-Auzā'ī said : A *muḥtakir* (one who hoards) is one who withholds supply of goods in the market.<sup>2901</sup>

(3441) Qatādah said : Hoarding does not apply to dried dates. Ibn al-Muthannā said that he (Yaḥyā b. Fayyād) reported on the authority of al-Ḥasan. We (Ibn al-Muthannā) said to him (Yaḥyā) : Do not say : "on the authority of al-Ḥasan".

Abū Dāwūd said : This tradition according to us is false.<sup>2902</sup>

Abū Dāwūd said : Sa'īd b. al-Musayyab used to hoard kernel, fodder, and seeds.

Abū Dāwūd said : I heard Aḥmad b. Yūnus say : I asked Sufyān about hoarding fodder. He replied : They (the people in the past) disapproved of hoarding. I asked Abū Bakr b. 'Ayyāsh (about it). He replied : Hoard it.<sup>2903</sup>

### Chapter 1295

#### BREAKING DIRHAMS (COINS)

(3442) 'Alqamah b. 'Abd Allah reported on the authority of his father, who said : The Apostle of Allah (may peace be upon him) forbade to break the coins of the Muslims current among them except for some defect.<sup>2904</sup>

### Chapter 1296

#### FIXING PRICES

(3443) Abū Hurairah said : A man came and said : Apostle of Allah, fix prices.

2900. This refers to necessities of life.

2901. If a man hoards goods so much so that it stops the supply of goods in the market, it is forbidden.

2902. The tradition narrated through the chain of Yaḥyā b. al-Fayyād. He narrated it from Hammām b. Yaḥyā.

2903. If the goods are abundant in the market, and hoarding does not affect the prices, it is permissible to hoard. But if hoarding affects the prices and they shoot up by hoarding, it is forbidden to hoard. It is not possible to define the things which fall within prohibition of hoarding. The prohibition, however, does not apply to items of luxury.

2904. The commentators have mentioned various reasons for prohibition of breaking coins, i.e. dirhams and dīnārs. First, the coins bear the name of Allah. If they are broken or cut into pieces, it would amount to derogating the Divine name. Second, the Prophet (may peace be upon him) forbade breaking or cutting a coin, for it is wastage of property. Third, the people used to cut off dirhams with scissors and had with them their sides to use them for making other things and small coins. They made dāniq (an ancient coin equal to one-sixth of a dirham) out of the clips of dirhams. Al-Ḥasan al-Baṣrī cursed a person who made dāniq. It is, however, permissible to cut a counterfeit coin or coins devalued by the government ('*Awn al-Ma'būd*, III, 286).

He said : (No), but I shall pray. Again the man came and said : Apostle of Allah, fix prices. He said : It is but Allah Who makes the prices low and high. I hope that when I meet Allah, none of you has any claim on me for doing wrong regarding blood or property.<sup>2905</sup>

(3444) Anas said : The people said : Apostle of Allah, prices have shot up, so fix prices for us. Thereupon the Apostle of Allah (may peace be upon him) said : Allah is the one Who fixes prices, Who withholds, gives lavishly and provides, and I hope that when I meet Allah, none of you will have any claim on me for an injustice regarding blood or property.

### Chapter 1297

#### PROHIBITION OF DECEPTION

(3445) Abū Hurairah said : The Apostle of Allah (may peace be upon him) passed a man who was selling grain. He asked him : How are you selling ? He informed him. Revelation then came down to him saying : "Put your hand into it." So he put his hand into it, and felt that it was damp. The Apostle of Allah (may peace be upon him) then said : "He who deceives has nothing to do with us" <sup>2906</sup>

(3446) Yahyā said : Sufyān disapproved of the interpretation of the phrase "has nothing to do with us" as "not like us." <sup>2907</sup>

2905. This shows that fixing prices by a ruler is doing an injustice and wrong to the people. People are free to sell their goods at any prices in normal conditions. This is the majority opinion. Mālik holds that a ruler of a country is allowed to fix prices for the convenience of the people in general.

It may be noted that sometimes merchants sell their goods at such high prices that the public cannot buy them. If the prices are not controlled and fixed by the government, people cannot live a smooth life. In such abnormal circumstances the government is allowed, as Mālik holds, to fix prices.

2906. This tradition has been abridged by the narrator in his version recorded by Abū Dāwūd. Muslim has recorded full version which goes : The Apostle of Allah (may peace be upon him) once came upon a heap of grain, and when he put his hand into it, his fingers felt some dampness. He asked the owner of the grain how that came about. On being told that rain had fallen on it, he said Why did you not put the damp part on the top of the grain so that the people might see it ? He who deceives has nothing to do with me

The phrase "has nothing to do with me (or with us)" means that he departed from my Sunnah. This tradition shows that there is no room for deception and fraud in Islam. Deception is forbidden and unlawful.

2907 Al-Nawawi explained this phrase in his commentary of Sahih Muslim ; He is not of those who follow my practice, and follow my knowledge, action and wholesome way of life. This is a kind of threat, just as a father who is displeased with his son threatens him by uttering such words. Sufyān b. 'Uyainah did not like the interpretation "not like us," for it has no force of threat. He wants an interpretation which gives forceful threat.



### Chapter 1298

#### OPTION OF THE TWO PARTIES IN A TRĀNSACTION

(3447) 'Abd Allah b. 'Umar reported the Apostle of Allah (may peace be upon him) as saying: Each one of the two parties in a business has an option (to annul it) against the other party so long as they have not separated,<sup>2908</sup> except in a conditional bargain.<sup>2909</sup>

(3448) The tradition mentioned above has also been transmitted by Ibn 'Umar from the Prophet (may peace be upon him) to the same effect through a different chain of narrators. This version adds: "Or one of them tells the other: "Exercise the right."<sup>2910</sup>

(3449) 'Abd Allah b. 'Amr b. al- 'Ās reported the Apostle of Allah (may peace be upon him) as saying: Both parties in a business transaction have a right to annul it so long as they have not separated unless it is a bargain with the option to annul is

2908. This chapter deals with a transaction where either party has in certain circumstances the right to annul it. The two parties have the option or right to annul the transaction before their separation. The Arabic word *istirāq* or *tafarruq* which occurs in this tradition has been interpreted in a twofold way, namely, physical separation and completion of negotiation about the business. A group of scholars hold that the two parties have the option or right to annul the bargain until their physical separation from each other. After their departure from the meeting they have no right to annul the bargain. This view is held by Ibn 'Umar, Abū Barzā' al-Aslamī, Shuraih, Sa'īd b. al-Musayyab, al-Ḥasan al-Baṣrī, 'Āṭā' b. Abī Rabāḥ, al-Zuhrī, al-Auzā'ī, al-Shāfi'ī, Ahmad, Ishāq, Abū 'Ubaid and Abū Thawr. Another group of scholars holds that "separation" means completion of negotiations about business and its final settlement between the parties by their mutual agreement and consent. If this happens they have no right to annul the bargain even if they do not separate from each other physically and remain sitting in the meeting. This is maintained by Ibrāhīm, al-Nakha'ī, Abū Ḥanīfah and Mālik. It may be noted that the language of this tradition supports the view of those who interpret it as physical separation (*'Awn al-Ma'būd*, III, 287).

2909. Al-Nawawī said: Three explanations have been offered by the commentators for this exception of conditional bargain. First, it means the option for exercising right after the settlement of bargain before separation of the two parties. In this conditional bargain each of them has the right to annul the transaction even after separation. After the settlement of the bargain if one party says to the other: Exercise your right, and the other party says in reply: We exercised or we opted, they can annul the transaction after separation. If they do not impose such a condition, they cannot annul the bargain after separation. Second, it means a bargain where a condition of option for three days or less has been imposed. In this case both the parties will have the right to annul the bargain after separation within the appointed term. Third, it means that both the parties impose a condition that they have no right to annul the bargain. The bargain will be considered as finally settled in the same meeting and they have no option to annul the bargain. The first explanation is said to be the most correct one (*'Awn al-Ma'būd*, III, 288).

2910. It means that if one of the parties tells the other to exercise the right, they have the right to annul the bargain within the appointed term even after separation.

attached to it ; and it is not permissible for one of them to separate from the other for fear that one may demand that the bargain be rescinded.<sup>2911</sup>

(3450) Abū al-Waḍī said : We fought a battle of ours, and encamped at a certain place. One of our companions sold a horse for a slave. Thereafter they remained there for the rest of day and night. When the next morning came, they prepared themselves for departure. The buyer of the horse began to saddle it, but the seller was ashamed (of the transaction). He went to the man (buyer) and asked him to annul the transaction. The man refused to hand over it (the horse) to him. He said : Abū Barzah, the Companion of the Prophet (may peace be upon him), is to decide between me and you. They went to Abū Barzah at the corner of the army. They related this story to him. He said : Do you agree that I make a decision between you on the basis of the decision of the Apostle of Allah (may peace be upon him) ? The Apostle of Allah (may peace be upon him) ? said : Both parties in a business transaction have an option (right) to annul it so long as they have not separated.

Hishām b. Ḥassān said that Jamīl said in his version : "I do not think that you separated."<sup>2912</sup>

(3451) Yaḥyā b. Ayyūb said : When Abū Zur'ah made a business transaction with a man, he gave him the right of option. He then would tell him : Give me the right of option (to annul the bargain). He said : I heard Abū Hurairah say : The Apostle of Allah (may peace be upon him) said : Two people must separate only by mutual consent.

(3452) Ḥakīm b. Ḥizām reported the Apostle of Allah (may peace be upon him) as saying : Both parties in a business transaction have a right of option (to annul it) so long as they have not separated ; and if they tell the truth and make everything clear, they will be blessed in their transaction, but if they conceal anything and lie, the blessing on their transaction will be blotted out.

Abū Dāwūd said : A similar tradition has also been transmitted by Sa'īd b. Abī 'Arūbah and Hammād. As regards Hammād, he said in his version : Until they separate or exercise the right of option (to annul the transaction), saying the words of option three times.

2911. This shows that separation of the two parties in a business confirms the settlement of the bargain. This also shows that only negotiation is not sufficient to finalise it, for it is probable that one may exercise the right of option even after the completion of talks. It implies that the two parties should separate after final settlement of bargain and should hasten in separation.

2912. Abū Barzah took the place where the army was encamped as one place of meeting. Though the buyer and the seller separated from each other from the place of transaction, he considered them to have stayed in the same meeting. He interpreted the meeting in a wider sense. In his opinion their separation meant their departure from the place where the army was staying. Separation is interpreted in accordance with local custom and practice. A meeting of business transaction may be held in a shop, house, room, big hall. In these cases, separation means departure from these places.

*Chapter 1299*

## RESCISSION OF A SALE.

(3453) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : If anyone rescinds a sale with a Muslim, Allah will cancel his slip.<sup>2913</sup> on the Day of Resurrection.<sup>2914</sup>

*Chapter 1300*

## TWO TRANSACTIONS COMBINED IN ONE BARGAIN

(3454) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : If anyone makes two transactions combined in one bargain, he should have the lesser of the two or it will involve usury.<sup>2915</sup>

*Chapter 1301*PROHIBITION OF 'INAH<sup>2916</sup> TRANSACTION

(3455) Ibn 'Umar said : I heard the Apostle of Allah (may peace be upon him)

2913. Allah will forgive his faults.

2914. Sometimes a man buys an object, but he feels that he does not need the object, or it is of low quality or he bought it at a high price. He, therefore, desires to rescind the sale. This tradition shows that a Muslim should rescind the sale if desired by the buyer. For this act Allah will forgive his sins and faults on the Day of Judgment.

2915. This means making part payment with the promise of the remainder later ; or selling an article for a stated price on condition that the buyer sells article to the seller for a stated price. Commentators have given many illustrations to explain this tradition. For instance, a man buys some wheat to be delivered after one month for a dīnār which he pays immediately. After the expiry of one month the buyer demands the delivery of wheat. But the seller says : Sell me the stated quantity of wheat for double the quantity to be delivered to you after two months. In this example two transactions have been combined in one bargain. They should be reverted to the lesser transaction, i.e. the original one. If they enter into the latter transaction before taking possession of the article of the former transaction, they would involve in usurious transaction. Al-Khaṭṭābī said : There may be two explanations. First, a man says to another : I sell this cloth for ten dirhams in cash and for fifteen dirhams on loan. This is not permissible, for the price of the article is not known definitely. When the price is obscure, the transaction is invalid. Second, one says to another : I sell this slave for twenty dīnārs on condition that you sell me your slave-girl for ten dīnārs. This is also not permissible, because he imposed the condition of selling his slave-girl which is not binding on the buyer. So the price of the slave becomes obscure. Hence the transaction is invalid according to most of scholars ('*Awn al-Ma'būd*, III, 290-291).

2916. 'Inah means to sell an article to someone and pay the price after an appointed term. The seller then buys the article from the buyer at a lower price.

say : When you enter into the '*inah*<sup>2917</sup> transaction, hold the tails of oxen, are pleased with agriculture, and give up conducting *jihād* (struggle in the way of Allah). Allah will make disgrace prevail over you, and will not withdraw it until you return to your original religion.<sup>2918</sup>

## Chapter 1302

### SALAM<sup>2919</sup> TRANSACTION (PAYMENT IN ADVANCE AND PLEDGE)

(3456) Ibn 'Abbās said : When the Apostle of Allah (may peace be upon him) came to Medina, they were paying one, two and three years in advance, for fruits, so he said : Those who pay in advance for anything, must do for a specified measure and weight with a specified time<sup>2920</sup> fixed.

(3457) Muḥammad or 'Abd Allah b. Mujāhid said : 'Abd Allah b. Shaddād and Abū Burdah disputed over *salaf* (payment in advance). They sent me to Ibn Abī Awfā and I asked him (about it) and he replied : We used to pay in advance (*salaf*) during the time of the Apostle of Allah (may peace be upon him), Abū Bakr and 'Umar in wheat, barley, dates and raisins. Ibn Kathīr added : "to those people who did not possess these things." The agreed version then goes : I then asked Ibn Abzā who gave a similar reply.<sup>2921</sup>

2917. It means selling something on loan. After handing over the article to the buyer, the seller buys it from the buyer at a lower price before receiving the price of the article. It is prohibited, for it is a combination of two transactions in one. He must first receive the price after the lapse of the term and then buy the article from him: '*inah* transaction is forbidden according to Mālik, Abū Ḥanīfah and Aḥmad b. Ḥanbal. But al-Shāfi'ī has permitted it ('*Awn al-Ma'būd*, III, 291).

2918 *Jihād* is the life-blood of the Muslim community. The principal aim of the creation of Muslims is to strive for the promotion of Islam. When Muslims neglect this primary duty, they will suffer retreat and disgrace in this world. The honour of Muslims lies in the honour and dominance of Islam. This tradition shows that in no circumstances should Muslims neglect *jihād*.

2919. *Salaf* or *salum* means to buy an article by paying the price in advance, and taking possession of the article after a specified term.

2920. *Salam* is permissible on condition that the term, weight or measure of the article, quality of the article and the place for the delivery of the goods are specified at the time of contract.

2921. It is disputed whether *salam* (*salaf*) is permissible in those articles which are not available at the time of contract, but may be available at the time when the specified term expires. It is permissible according to the majority of scholars, Abū Ḥanīfah, al-Thawrī and al-Auzā'ī maintain that the articles should be available at the time of contract ; otherwise the *salam* contract is invalid. If the goods are available at the time of contract, but disappear from the market after some time, the contract will remain valid ('*Awn al-Ma'būd*, III, 292).

(3458) The tradition mentioned above has also been transmitted by Ibn Abī al-Mujālid through a different chain of narrators. This version has : "to those people who did not possess these things."

Abū Dāwūd said : What is correct is Ibn Abī al-Mujālid. Shu'bah made a mistake in it.<sup>2922</sup>

(3459) 'Abd Allah b. Abī Awfā al-Aslamī said : We made a journey to Syria on an expedition along with the Apostle of Allah (may peace be upon him). The Nabateans of Syria came to us and we paid in advance to them (in a *salam* contract) in wheat and olive oil at a specified rate and for a specified time. He was asked (by the people) : you might have contracted with him who had these things in his possession ? He replied : We did not ask them.

### Chapter 1303

#### SALAM CONTRACT IN A SPECIFIED FRUIT

(3460) Ibn 'Umar said : A man paid in advance for a palm-tree. It did not bear fruit that year. They brought their case for decision to the Prophet (may peace be upon him). He said : For which do you make his property lawful ? He then said : Do not pay in advance for a palm-tree till they (the fruits) were clearly in good condition.<sup>2923</sup>

### Chapter 1304

#### THE GOODS OF *SALAM* CONTRACT SHOULD NOT BE TRANSFERRED BEFORE TAKING ITS POSSESSION

(3461) Abū Sa'īd al-Khudrī reported the Apostle of Allah (may peace be upon him) as saying : If anyone pays in advance he must not transfer it to someone else

2922. In the previous tradition Shu'bah mentioned 'Abd Allah b. Mujālid. This is incorrect. The correct name is 'Abd Allah b. Abī al-Mujālid, or Ibn Abī al-Mujālid. He was a client of 'Abd Allah b. Abī Awfā. It is also said that his name was Muhammad. Hence in the previous tradition the narrator was doubtful on the name : Muḥammad or 'Abd Allah.

2923. The Prophet (may peace be upon him) did not allow this *salam* transaction as the article or object of sale was not available. This transaction was like one where the article or price was unknown. Abū Ḥanīfah argues on the basis of this tradition that *salam* contract for an unknown article or which is not available at the time of contract, or which may perish at the time of delivery, is not valid.

This tradition is not sound. A narrator in the chain is obscure ('*Awn al-Ma'būd*, III, 293).



before he receives it.<sup>2924</sup>

### Chapter 1305

#### PROVIDING DISCOUNT IN THE CASE OF CROP DAMAGE

(3462) Abū Sa'īd al-Khudrī said : In the time of the Apostle of Allah (may peace be upon him) a man suffered loss affecting fruits he had bought and owed a large debt, so the Apostle of Allah (may peace be upon him) said : Give him *ṣadaqah* (alms). So the people gave him *ṣadaqah* (alms), but as that was not enough to pay the debt in full, the Apostle of Allah (may peace be upon him) said : Take what you find, but that is all you may have.<sup>2925</sup>

(3463) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying : If you were to sell dried dates to your brother and they were smitten by blight, it will not be allowable for you to take your brother's property unjustly ?<sup>2926</sup>

### Chapter 1306

#### EXPLANATION OF BLIGHT

(3464) 'Aṭā' said : Blight means anything which obviously damages (the crop), by rain, hail, locust, blast of wind, or fire.

(3465) Yaḥyā b. Sa'īd said : Blight is not effective when less than one-third of goods is damaged. Yāḥyā said : That has been the established practice of

2924. According to the established rules of sale transaction, it is forbidden to sell the article which a man has not taken into his possession. One may transfer the object of *salam* after possessing it. Similarly, it is also not permissible to change the object of *salam* for another. For instance, one is not allowed to change rice for wheat in a *salam* contract before taking possession of wheat for which he made a contract.

2925. If the crop is damaged after sale before picking the fruits, it is disputed whether the seller or the buyer should bear the loss. According to Abū Ḥanīfah and al-Shāfi'ī, the buyer should bear the loss as the fruits were in good condition at the time of contract. Mālik maintains that if the crop damaged is less than one-third, the buyer should bear the loss, and the seller should not give him any discount. In case it exceeds one-third or it is one-third of the whole crop, the seller should bear the loss. He should give discount to the buyer (*'Awn al-Ma'būd*, III, 294).

2926. This tradition obviously supports the viewpoint of Mālik. This also might mean that the seller should return the price to the buyer in case he sold the fruits before they became saleable in good condition. In this case all scholars are agreed that the seller should not take anything from the buyer. This, however, is appreciable when all the fruit is damaged. If it is damaged in part, the seller should give discount to the buyer accordingly.

Muslims.<sup>2927</sup>

### Chapter 1307

#### WITHHOLDING EXCESS WATER

(3466) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: Excess water should not be withheld so as to prevent (cattle) by it from grass.<sup>2928</sup>

(3467) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: There are three people whom Allah will not address on the Day of Judgment: a man who prevents a traveller from the excess water<sup>2929</sup> which he has with him; and a man who swears for the goods (for sale) after the afternoon prayer,<sup>2930</sup> that is, (he swears) falsely; and a man who takes the oath of allegiance to a ruler (*imām*); if he gives him (something), he fulfils (the oath of allegiance) to him; if he does not give him (anything), he does not fulfil it.<sup>2931</sup>

(3468) The tradition mentioned above has also been related by al-A'mash to the same effect through a different chain of narrators. This version adds: "He said: 'Nor purify them; grievously will be their penalty'."<sup>2932</sup>

He said about (selling) the goods: I swear by Allah, I was given (the price) so and so for it. The other man considered it to be correct and bought it.

(3469) Buhaisah narrated on the authority of her father: My father asked the Prophet (may peace be upon him) for permission (to kiss his body). (When he was given

2927 Blight is applicable to the damage which is caused by some natural calamity and not by theft and similar other causes. Further, the seller will allow discount or suffer loss when the damage is one-third or exceeds one-third of the crop. If the damage is less than one-third, the buyer shall bear the loss, as it is customary.

2928. The people in the time of the Prophet (may peace be upon him) in Arabia had their own wells at different places. They collected water in a pit near by for their cattle. When their cattle drank water, the animals of other people which grazed grass around the well drank the left-over. But the owners of the wells began to prevent the cattle from drinking water from the pit. In this way they stopped cattle from grazing grass around the well. The Prophet (may peace be upon him), therefore, prohibited people to prevent the cattle from drinking water so that they might graze the grass.

2929. This shows that if a man has excess water, he should not withhold it from others.

2930 To prove the truth of one's statement, one swears after the afternoon prayer for the excellence of this time. Hence the Prophet (may peace be upon him) used to ask the people to take an oath after this prayer in disputes brought to him for decision.

2931. This means that one should take the oath of allegiance to a ruler sincerely without any temptation.

2932. The full verse reads: "Allah will not address them on the Day of Resurrection, nor purify them; grievously will be their penalty" (Qur'ān, ii, 174).

permission), lifting his shirt he approached his body, and began to kiss and stick to him. He then asked : Prophet of Allah, what is the thing withholding of which is not lawful ? He replied : Water. He asked : Prophet of Allah, what is the thing withholding of which is not lawful ? He replied : Salt. He again asked : Prophet of Allah, what is the thing withholding of which is not lawful ? He said : That you do a good work is better for you.<sup>2933</sup>

(3470) A man from the immigrants of the Companions of the Prophet (may peace be upon him) said : I participated in battle three times along with the Prophet (may peace be upon him). I heard him say : Muslims have common share in three (things) : grass, water and fire.<sup>2934</sup>

### Chapter 1308

#### SALE OF EXCESS WATER

(3471) Iyās b. 'Abd said : The Apostle of Allah (may peace be upon him) forbade the sale of excess water.<sup>2935</sup>

### Chapter 1309

#### SALE OF CAT

(3472) Jābir b. 'Abd Allah said : The Prophet (may peace be upon him) forbade payment for dog and cat.<sup>2936</sup>

2933. It is forbidden to prevent people from water and salt in their natural resources like streams, rivers and mines. When they are possessed by someone, he may withhold them.

2934. As these things are of common use, the Prophet (may peace be upon him) prohibited to withhold them. All Muslims have equal right to their use when they are found in their natural resources. Here fire means the wood burnt in the fire, and the stones which produce fire. But if someone owns these things, he may withhold.

2935. Water is a thing of common use and needed by the people in general. It is one of fundamental necessities of life. Therefore, the Prophet (may peace be upon him) prohibited to prevent people from its use in its natural resources, and to sell it when it is surplus. If a man has excess water, and does not need it for himself, his cattle, or for any other purpose, he should not sell it, but give it to the people free of charge, especially in those regions where there is a scarcity of water.

2936. The Prophet (may peace be upon him) forbade to sell a cat for it is generally tamed by the people to catch the mice. People may lend their cat to others and take it back from them. Abū Hurairah, Mujāhid, Tāwūs and Jābir b. Zaid think that it is forbidden to sell a cat. But most scholars hold that it is permissible to sell a cat. This tradition, according to them, is weak. A group of scholars holds that the Prophet (may peace be upon him) forbade to sell a wild cat and not domestic ('*Awn al-Ma'būd*, III, 297)

(3473) Jābir said : The Prophet (may peace be upon him) forbade payment for cat.

### Chapter 1310

#### PAYMENTS FOR DOGS

(3474) Abū Mas'ūd said : The Prophet (may peace be upon him) forbade the price paid for a dog,<sup>2937</sup> the hire paid to a prostitute,<sup>2938</sup> and the gift given to a soothsayer.<sup>2939</sup>

(3475) 'Abd Allah b. 'Abbās said : The Apostle of Allah (may peace be upon him) forbade the price paid for a dog ; if someone comes to ask for the price of a dog, fill his hand-palm with dust.

(3476) Abū Juhaifah said : The Apostle of Allah (may peace be upon him) forbade the price paid for a dog.

(3477) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : The price paid for a dog, the gift given to a soothsayer, and the hire paid to a prostitute are not lawful.

### Chapter 1311

#### PAYMENT FOR WINE AND DEAD MEAT

(3478) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Allah forbade wine and the price paid for it, and forbade dead meat and the price paid for it, and forbade swine and the price paid for it.<sup>2940</sup>

(3479) Jābir b. 'Abd Allah said that he heard the Apostle of Allah (may peace be upon him) say in the year of the Conquest when he was in Mecca : Allah has declared forbidden the sale of wine, animals which have died a natural death, swine and idols. He was asked : Apostle of Allah, what do you think of the fat of animals which had died a natural death, for it was used for caulking ships, greasing skins,

2937. This tradition shows that it is forbidden to sell a dog. This is held by the majority of scholars. Abū Ḥanīfah maintains that it is permissible to sell a dog. 'Aṭā' and al-Nakha'ī hold that it is permissible to sell a hunting dog, and not others (*'Awn al-Ma'būd*, III 297).

2938. The hire paid to a prostitute is forbidden by the consensus of Muslims.

2939. Muslims should not go to soothsayers and ask them about their future. They generally mislead people. They do not have correct information about the unseen. Hence the Prophet (may peace be upon him) forbade Muslims to consult soothsayers and to give them any gift for consultation.

2940. This tradition shows that sale of wine, dead meat and swine is forbidden. Benefiting from the parts of swine is also prohibited.

and making oil for lamps? He replied: No, it is forbidden.<sup>2941</sup> Thereafter, the Apostle of Allah (may peace be upon him) said: May Allah curse the Jews! When Allah declared the fat of such animals lawful, they melted it, then sold it, and enjoyed the price they received.<sup>2942</sup>

(3480) Yazīd b. Abī Ḥabīb said: Jābir wrote to me a similar tradition. But he did not say in this version. "It is forbidden."

(3481) Ibn 'Abbās said: I saw the Apostle of Allah (may peace be upon him) sitting near the Black Stone (or at a corner of the Ka'bah). He said: He (the Prophet) raised his eyes towards the heaven, and laughed, and he said: May Allah curse the Jews! He said this three times. Allah declared unlawful for them the fats (of the animals which died a natural death); they sold them and they enjoyed the price they received for them. When Allah declared eating of a thing forbidden for a people, He declares its price also forbidden for them. The version of Khālīd b. 'Abd Allah al-Ṭahhān does not have the words "I saw". It has: "May Allah destroy the Jews!"

(3482) Al-Mughīrah b. Shu'bah reported the Apostle of Allah (may peace be upon him) as saying: He who sold wine should shear the flesh of swine.<sup>2943</sup>

(3483) 'Ā'ishah said: When the last verses of Sūrat al-Baqarah were revealed, the Apostle of Allah (may peace be upon him) came out and recited them to us and said: Trading in wine has been forbidden.

(3484) The tradition mentioned above has also been transmitted by al-A'mash to the same effect through a different chain of narrators. This version adds: "The last verses about usury".

## Chapter 1312

### SALE OF FOODGRAIN BEFORE TAKING ITS POSSESSION

(3485) Ibn 'Umar reported the Apostle of Allah (may peace be upon him) as saying: If anyone buys grain, he must not sell it till he receives it in full.<sup>2944</sup>

2941. This shows that the use of the fat of the animals which die a natural death is forbidden, as it is a part of the dead meat.

2942. The Jews made the use of the prohibited fat lawful by a legal device. They did not use it in its natural form that was forbidden. They changed the form by melting it, and then used it.

2943. This means that if a man considers the sale of wine lawful, he should consider the eating of the flesh of swine lawful. Wine and swine both are forbidden. By "shearing the flesh of swine" means he should consider the swine lawful. One should avoid both wine and swine, as both are forbidden.

2944. This shows that a man should not sell grain until he takes its possession. This question is disputed amongst scholars. Al-Shāfi'ī holds that sale of any article is not valid until one receives it in full. Possession of the article is a necessary condition for the validity of its sale. This applies



(3486) Ibn 'Umar said : During the time of the Apostle of Allah (may peace be upon him) we used to buy grain, and he sent a man to us who ordered us to move it from the spot where we had bought it to some other place, before we sold it without weighing or measuring it.<sup>2945</sup>

(3487) Ibn 'Umar said : They (the people) used to buy grain in the upper part of the market in the same spot without measuring or weighing it. The Apostle of Allah (may peace be upon him) forbade them to sell it there before removing it.<sup>2946</sup>

(3488) 'Abd Allah b. 'Umar said : The Apostle of Allah (may peace be upon him) forbade to sell grain which one buys by measurement until one receives it in full.

(3489) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : If anyone buys grain, he should not sell it until he measures it. Abū Bakr added in his version : I asked Ibn 'Abbās : Why ? He replied : Do you not see that they sell (grain) for gold, but the grain is still with the seller.<sup>2947</sup>

(3490) Ibn 'Abbās reported the Apostle of Allah (may peace be upon him) as saying : If anyone buys grain, he should not sell it until he takes possession of it. Sulaimān b. Ḥarb said : Until he receives it in full. Musaddad added : Ibn 'Abbās said : And I think that everything is like grain.<sup>2948</sup>

(3491) Ibn 'Umar said : I saw that during the time of the Apostle of Allah (may peace be upon him) the people were beaten when they bought grain on the same spot and sold it there without moving it to their houses.

(3492) Ibn 'Umar said : I bought olive oil in the market. When I became its

equally to grain, land and to all movable and immovable property. Abū Ḥanīfah holds that possession is necessary for the sale of all commodities except immovable things. Mālik maintains that possession is necessary in the case of grain and not in other goods. According to some scholars, possession is necessary in the case of those commodities that are measured and weighed. Other things can be sold before taking their possession. Aḥmad b. Ḥanbal maintains that possession is necessary in movable articles and not in immovable, like land, garden and house (*'Awn al-Ma'būd*, III, 299).

2945. Commodities that are weighed or measured should be sold after weighing or measuring them. They should not be sold for the same weight or measurement as at the time of buying them. If a heap of some commodity is sold without weighing or measuring it, it should be removed from the spot where it was bought.

2946. This shows that a heap of some commodity bought without any weight or measurement should be sold after removing it from that spot where it was bought.

2947. A man, for example, buys grain from another man to be delivered within an appointed term. But before receiving the delivery of the goods he sells it to another man with some profit. The Prophet (may peace be upon him) forbade such a transaction. One should first take possession of the goods, and it is only after that that he can sell it.

2948. This shows that Ibn 'Abbās does not distinguish between grain and other goods. In his opinion one should take possession of everything before its sale. Mālik distinguishes between grain and other commodities.

owner, a man met me and offered good profit for it. I intended to settle the bargain with him, but a man caught hold of my hand from behind. When I turned I found that he was Zaid b. Thābit. He said : Do not sell it on the spot where you have bought it until you take it to your house, for the Apostle of Allah (may peace be upon him) forbade to sell the goods where they are bought until the tradesmen take them to their houses.

### Chapter 1313

#### ON A MAN WHO SAYS AT THE TIME OF MAKING A BARGAIN ; "THERE IS NO ATTEMPT TO DECEIVE"

(3493) Ibn 'Umar said : A man told the Apostle of Allah (may peace be upon him) that he was being deceived in business transactions. The Apostle of Allah (may peace be upon him) then said : When you make a bargain, say : There is no attempt to deceive. So when the man made a bargain, he said : There is no attempt to deceive.<sup>2949</sup>

(3494) Anas b. Mālik said : During the time of the Apostle of Allah (may peace be upon him) a man used to buy (goods), and he was weak in his intellect.<sup>2950</sup> His people came to the Prophet of Allah (may peace be upon him) and said : Prophet of Allah, stop so-and-so (to make a bargain), for he buys (goods), but he is weak in his intellect. So the Prophet (may peace be upon him) called on him and forbade him to make a bargain. He said : Prophet of Allah, I cannot keep away myself from business transactions. Thereupon the Apostle of Allah (may peace be upon him) said : If you cannot give up making a bargain, then say : Take, and give, and there is no attempt to deceive.<sup>2951</sup>

2949. The Prophet (may peace be upon him) told the man to utter these words, for he was not expert enough to detect defects in what he bought. According to Aḥmad, if a man utters these words, he may cancel the bargain within three days if some defect in the goods is discovered. Abū Ḥanīfah, al-Shāfi'ī and most of scholars apply this tradition only to the man who spoke to the Prophet (may peace be upon him) and who was deceived in his bargain. According to some, it applies to everyone.

2950. 'Uqdah has been explained in various ways. Some versions have the word 'aqī instead of 'uqdah, and they explain it so. Some scholars have interpreted it as sound opinion, acumen and insight in business. Others think that it means that the man had a tongue tie due to a wound which he received in his head. For this defect he used to say *lā khidhābah*, or *lā khinābah* instead of pronouncing the correct word *lā khilābah* (There is no deception).

2951. According to Mālik and Aḥmad b. Ḥanbal, if a man is deceived in his bargain and says these words, he may cancel the bargain if some defect is found. But all other scholars maintain that the Prophet (may peace be upon him) granted this concession to that man alone as a special case. Hence this cannot be generalised. If a man is deceived in his bargain he may make the conditional

Abū Thawr said : On the authority of Sa'īd.

### Chapter 1314

#### PAYMENT OF EARNEST MONEY<sup>2952</sup>

(3495) 'Amr b. Shu'aib, on his father's authority, said his grandfather told that the Apostle of Allah (may peace be upon him) forbade the type of transactions in which earnest money was paid.

Mālik said : This means, as we think—Allah better knows—that a man buys a slave or hires an animal, and he says : I give you a dīnār on condition that if I give up the transaction or hire, what I gave you is yours.<sup>2953</sup>

### Chapter 1315

#### ON A MAN WHO SELLS THE ARTICLES WHICH HE DOES NOT POSSESS

(3496) Ḥakīm b. Hizam said that he asked (the Prophet) : Apostle of Allah, a man comes to me and wants me to sell him something which is not in my possession. Should I buy it for him from the market? He replied : Do not sell what you do not possess.<sup>2954</sup>

(3497) 'Amr b. Shu'aib on his father's authority said that his grandfather 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying : The proviso of a loan combined with a sale is not allowable,<sup>2955</sup> nor two conditions re-

bargain with his option to cancel it within three days. This tradition cannot, however, be taken as a general rule for cancellation of transactions by those who are deceived in their bargain.

2952. 'Uḍm means earnest money. If it is treated as part of the price in case the deal is completed, and it is retained in case it is not completed, such an arrangement is illegal. It is unlawful, for it involves hazard.

2953. A man buys an object or hires an animal or car and pays earnest money to the seller or to the owner and says to him that the earnest money will be treated as part of the price, and if the transaction is not completed he will not take it back from him. This sort of transaction is unlawful according to scholars in general. But Aḥmad b. Ḥanbal allows it ('*Awn al-Ma'būd*, III, 302).

2954. This shows that it is forbidden to sell an article which a man does not possess.

2955. This means that a man sells something to another man on condition that he gives him some money on loan, or pays him some money in advance for goods to be delivered to him after an appointed term ; or it means that a man lends another man some money and then sells something to him at a higher price. This sort of transaction is forbidden.

lating to one transaction,<sup>2956</sup> nor the profit arising from something which is not in one's charge,<sup>2957</sup> nor selling what is not in your possession.

### Chapter 1316

#### IMPOSING A CONDITION IN A BUSINESS TRANSACTION

(3498) Jābir b. 'Abd Allah said: I sold it, that is, camel, to the Prophet (may peace be upon him), but I made the stipulation that I should be allowed to ride it to home. At the end he (the Prophet) said: Do you think that I made this transaction with you so that I take your camel? Take your camel and its price; both are yours.<sup>2958</sup>

### Chapter 1317

#### CONTRACTUAL OBLIGATION OF A SLAVE

(3499) 'Uqbah b. 'Āmir reported the Apostle of Allah (may peace be upon him) as saying: The contractual obligation of a slave is three days.<sup>2959</sup>

(3500) The tradition mentioned above has also been transmitted by Qatādah through a different chain of narrators to the same effect. This version adds: "If he finds defect (in the slave) within three days, he may return it without any evidence; if he finds a defect after three days, he will be required to produce evidence that he (the slave) had the defect when he bought it."

2956. This means that a man sells his slave to another man for one thousand dirhams in cash and for two thousand dirhams on loan. It may also mean that a man says that he sells his cloth on condition that he will get it washed and sewn. This sort of conditional sale is forbidden. Most of scholars opine that the mention of two conditions is incidental. Imposition of one condition in a bargain is also forbidden. But some scholars validate the bargain if only one condition is imposed.

2957. For example, a man buys an article, but does not take it in his possession from the seller, and sells it to another man on some profit. The profit arising from this sale is forbidden. He should first take possession of the article and then sell it.

2958. Mālik, Aḥmad and other scholars allow the sale of an animal with the stipulation of riding it. Mālik holds that it is valid in case the distance is short. Al-Shāfi'ī, Abū Ḥanīfah and others do not validate conditional sale of an object. They argue from the traditions which forbid conditional transaction. This tradition in their opinion is not clear (*'Awn al-Ma'būd*, III, 303).

2959. If a man buys a male or a female slave, he can return them to the seller without proving any defect. If there is a defect in the slave and he returns him within three days, he is not required to produce any evidence for the defect. The seller shall have to take him back. But if he returns him after three days, he will have to prove the defect by producing some evidence or by acknowledgment. This view is held by Mālik and the people of Medina. According to others, this tradition is weak. They do not follow it.

Abū Dāwūd said : This explanation is from the words of Qatādah.

### *Chapter 1318*

#### **IF A MAN BUYS A SLAVE, AND HE EMPLOYS IT AND THEN FINDS DEFECT IN HIM, THE WAGES BELONG TO THE BUYER**

(3501) 'Ā'ishah reported the Apostle of Allah (may peace be upon him) as saying : Profit follows responsibility.<sup>2960</sup>

(3502) Makhlad b. Khufāf al-Ghifārī said : I and some people were partners in a slave. I employed him on some work in the absence of one of the partners. He got earnings for me. He disputed me and the case of his claim to his share in the earnings to a judge, who ordered me to return the earnings (i.e. his share) to him. I then came to 'Urwah b. al-Zubair, and related the matter to him. 'Urwah then came to him and narrated to him a tradition from the Apostle of Allah (may peace be upon him) on the authority of 'Ā'ishah : Profit follows responsibility.

(3503) 'Ā'ishah said : A man bought a slave, and he remained with him as long as Allah wished him to remain. He then found defect in him. He brought his dispute with him to the Prophet (may peace be upon him) and he returned him to him. The man said : Apostle of Allah, my slave earned some wages. The Apostle of Allah (may peace be upon him) then said : Profit follows responsibility.

Abū Dāwūd said : This chain of narrators (of this version) is not reliable.

### *Chapter 1319*

#### **IF BOTH PARTIES DIFFER ON THE PRICE OF AN ARTICLE WHEN IT IS AVAILABLE, THE STATEMENT OF THE SELLER WILL BE ACCEPTED**

(3504) Muḥammad b. al-Ash'ath said : Al-Ash'ath bought slaves of booty from 'Abd Allah b. Mas'ūd for twenty thousand (dirhams). 'Abd Allah asked him for payment of their price. He said : I bought them for ten thousand (dirhams). 'Abd Allah said : Appoint a man who may adjudicate between me and you. Al-Ash'ath said : (I appoint) you between me and yourself. 'Abd Allah said : I heard the Apostle of Allah (may peace be upon him) say : If both parties in a business transaction differ (on the price of an article), and they have witness between them, the statement of the

<sup>2960</sup> If a man buys a slave, and he is employed on a certain work, his earnings belong to the buyer according to the principle "Profit follows responsibility." As the buyer is responsible for the slave, and he will suffer the loss if he dies, he will, therefore, receive his earnings. But he may return the slave to the seller on account of some defect.



owner of the article will be accepted (as correct), or they may annul the transaction.<sup>2961</sup>

(3505) Al-Qāsim b. 'Abd al-Rahmān reported on the authority of his father : Ibn Mas'ūd sold slaves to al-Ash'ath b. Qais. He then narrated the rest of the tradition to the same effect with some variation of words.

### Chapter 1320

#### PRE-EMPTION (OPTION TO BUY NEIGHBOURING PROPERTY)

(3506) Jābir reported the Apostle of Allah (may peace be upon him) as saying : There is the right of option regarding everything which is shared, whether a dwelling or a garden. It is not lawful to sell before informing one's partner, but if he sells without informing him, he has the greatest right to it.<sup>2962</sup>

(3507) Jābir b. 'Abd Allah said : The Apostle of Allah (may peace be upon him) decreed the right to buy the neighbouring property applicable to everything which is not divided, but when boundaries are fixed and separate roads made, there is no option.<sup>2963</sup>

(3508) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : When land has been divided and boundaries have been set up, there is no

2961. There is a difference of opinion amongst scholars on this question. According to Mālik and al-Shāfi'i, the seller will be asked to take an oath. If he takes an oath, the buyer will be asked to accept his statement or he should take an oath. If he takes an oath, the article will be returned to the seller and the transaction will be cancelled. According to Muḥammad b. al-Ḥasan and al-Shāfi'i, this procedure will be operative in both cases whether the article is available or it has perished. Al-Nakha'i, al-Thawri, al-Auzā'i, Abū Ḥanīfah and Abū Yūsuf maintain that if the article has perished, the statement of the buyer will be accepted after taking an oath by him ('*Awn al-Ma'būd*, III, 305).

2962. *Shuf'ah* literally means pair, even number, increasing or helping. Technically, it means the right of option which a partner has to exercise at the time of sale of a property in which he has his share. Pre-emption is valid only in immovable property like land, house or garden. For example, four persons have their shares in a house or garden. One of them wants to sell his share. He cannot sell his share to any other person before informing his partners. If they refuse to buy his share, he can sell it to the other person. If he sells it without informing them, they may buy it from that man for the same price through the court of law.

2963. Pre-emption is applicable to a property which is not divided separately among partners. If partners have their specified shares which are separate from each other, there is no option to buy the other's share. Fixation of boundaries and separation of roads indicate that the property has been divided among the partners. Hence the right to buy the property does not apply. But, according to Abū Ḥanīfah, a neighbour has also the right of pre-emption. In a divided property a neighbour can exercise his right of pre-emption.

right of pre-emption in it.<sup>2964</sup>

(3509) Abū Rāfi' reported the Apostle of Allah (may peace be upon him) as saying: The neighbour has the best claim by reason of his being near.<sup>2965</sup>

(3510) Samurah reported the Prophet (may peace be upon him) as saying: A neighbour has the best claim to the house or land of the neighbour.<sup>2966</sup>

(3511) Jābir b. 'Abd Allah reported the Apostle of Allah (may peace be upon him) as saying: The neighbour is most entitled to the right of pre-emption, and he should wait for its exercise even if he is absent, when the two properties have one road.<sup>2967</sup>

### Chapter 1321

#### ON A MAN WHO BECOMES INSOLVENT AND A CREDITOR FINDS HIS VERY PROPERTY WITH HIM; HE IS MORE ENTITLED TO IT THAN ANYONE ELSE

(3512) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying: If anyone becomes insolvent and the man (i.e. creditor) finds his very property with him, he is more entitled to it than anyone else.<sup>2968</sup>

(3513) Abū Bakr b. 'Abd al-Raḥmān b. al-Ḥārith b. Hishām reported the Apostle of Allah (may peace be upon him) as saying: If a man sells (his) property and the man who buys it becomes insolvent, and the seller does not receive the price of the property he had sold, but finds his very property with him (i.e. the buyer), he is more

2964. This shows that pre-emption does not apply to a divided property. It applies only to an undivided property.

2965. According to Abū Ḥanīfah, a neighbour, whether he is partner or not, has the right of pre-emption. According to other jurists, only a neighbour who is partner in a property has the right of pre-emption. A neighbour who has no share in the property has no right of option. The chain of this tradition has been criticised by specialists in *Ḥadith*. There is a confusion in the chain.

2966. This shows that a neighbour, whether he is a partner or not, has the right of pre-emption. This is held by Abū Ḥanīfah. According to other scholars, this tradition is not sound. The claim is objectionable. Yaḥyā b. Ma'īn said that al-Ḥasan did not hear traditions from Samurah directly (*'Aww al-Ma'būd*, III, 307).

2967. This shows that a neighbour who is absent is entitled to buy the neighbouring property. The owner should wait for him before selling it to another man. Those who hold that the neighbour should be a partner argue from this tradition, for it shows that the way of two properties is one. This means they are partners.

2968. This tradition shows that if a man is insolvent and the creditor finds his property with the man, he may take back his property. The other creditors will not share him in his property. This is a widely held opinion. Abū Ḥanīfah holds that this creditor who finds his property will be like other creditors. He will not take his property.

entitled to it (than others). If the buyer dies, then the owner of the property is equal to other creditors.<sup>2969</sup>

(3514) The tradition mentioned above has also been transmitted by Abū Bakr b. 'Abd al-Rahmān b. al-Ḥārith b. Hishām from the Apostle of Allah (may peace be upon him) through a different chain of narrators to the same effect as narrated by Mālik. This version adds: "If he paid something from the price (of the property), then he will be equal to the creditors in it."

(3515) A similar tradition has been transmitted by Abū Hurairah from the Prophet (may peace be upon him). This version has: If he paid something from its price, then he will be equal to the creditors in the remaining price. If a man dies and he has the very property of a man (i.e. seller), he is equal to the creditors whether he (the buyer) pays him (the price) or not.

Abū Dāwūd said: Mālik's version of this tradition is sounder.<sup>2970</sup>

(3516) 'Umar b. Khaldah said: We came to Abū Hurairah who had become insolvent. He said: I shall decide between you on the basis of the decision of the Apostle of Allah (may peace be upon him): If anyone becomes insolvent or dies<sup>2971</sup> and the man (the seller) finds his very property with him, he is more entitled to it (than others).

## Chapter 1322

### ON A MAN WHO CURES A JADED ANIMAL

(3517) 'Āmir al-Sha'bī reported the Apostle of Allah (may peace be upon him) as saying: If anyone finds an animal whose owners were helpless to provide fodder<sup>2972</sup> to it and so they turned it out (of their house), and he took it and looked

2969. This is held by Mālik and Aḥmad. Al-Shāfi'ī holds that in case the buyer dies, the seller will be entitled to the property which he sold. He will not be treated like other creditors ('*Awn al-Ma'būd*, III. 309).

2970. This version says that if the buyer who died paid the price in part, then the seller would be equal to other creditors in respect of the remaining price. If he did not pay the price at all, then the seller would be allowed to take his property from him if he finds it with him.

2971. If he dies and does not pay the price of the property, the seller may take his very property. If he pays the price in part, the seller then will be equal to other creditors.

2972. It means that a man has an animal, say a camel, which is jaded and cannot walk further, and the owner tries his best to look after it and cure it, but it does not become normal, so he leaves it on the way, or drives it away to some desolate place. It goes here and there and there is none to look after it and to provide it with fodder and drink. Another man takes this animal to his home and looks after it until it becomes normal.

after it, it will belong to him.<sup>2973</sup>

Abū Dāwūd said : This is the tradition of Ḥammād. It is more plain and perfect.

(3518) Al-Sha'bī reported the Prophet (may peace be upon him) as saying : If anyone leaves an animal at a place of perishing and another man brings it to life, it belongs to him who brings it to life.<sup>2974</sup>

## Chapter 1323

### PLEDGE

(3519) Abū Hurairah reported the Prophet (may peace be upon him) as saying : The milk of milch camels may be drunk for payment when in pledge, and the animal may be ridden for payment when it is in pledge ; payment being made by the one who rides and the one who-drinks.<sup>2975</sup>

Abū Dāwūd said : In our opinion this is correct.

(3520) 'Umar b. al-Khaṭṭāb reported the Prophet (may peace be upon him) as saying : There are people from the servants of Allah who are neither Prophets nor martyrs ; the Prophets and martyrs will envy them on the Day of Resurrection for their rank from Allah, the Most High. They (the people) asked : Tell us, Apostle of Allah, who are they ? He replied : They are people who love each other for the spirit of Allah (i.e. the Qur'ān) without having any mutual kinship and giving property to each other. I swear by Allah, there will be light on their faces, and they will be (sitting) on (pulpits of) light. They will have no fear (on the Day) when the people will

2973. Some scholars hold that the animal abandoned by its owner due to its infirmity belongs to the man who finds it. But when the owner comes and demands his animals, he should return it. Aḥmad and Ishāq maintain that this animal belongs to the man who takes it to his home and looks after it. Al-Shāfi'ī holds that the owner should not leave the animal where water and fodder are not available. He should either provide it with fodder, or sell it, or leave it in a pasture. According to Abū Ḥanīfah, the owner should try his best for its cure and normalcy.

2974. People should not leave the animals due to their infirmity at lonely and desolate places. They should sell them or slaughter them. If a man looks after such an animal as was left at a desolate place, it belongs to him.

2975. This shows that it is allowed to benefit from that object of pledgee by the pledgee without the permission of the owner. This is held by Aḥmad, Ishāq, al-Laith, and al-Ḥasan. Mālik, Abū Ḥanīfah, al-Shāfi'ī and most of scholars maintain that it is not permissible for a pledgee to benefit from the object of security. Profit and responsibility both go to the pledger. Al-Auzā'ī, al-Laith and Abū Thawr think that if the pledger, i.e. the owner, is unable to maintain the object of pledge, then the pledgee is allowed to spend on the object and benefit from it proportionately ( *Awā al-Ma'būd*, III, 311).

have fear, and they will not grieve when the people will grieve. He then recited the following Qur'ānic verse ;<sup>2976</sup> "Behold ! Verily on the friends of Allah there is no fear, nor shall they grieve."<sup>2977</sup>

### Chapter 1324

#### ON A MAN WHO ENJOYS FROM THE PROPERTY OF HIS CHILD

(3521) The aunt of 'Umārah b. 'Umair asked 'Ā'ishah : I have an orphan in my guardianship. May I enjoy from his property ? She said : The Apostle of Allah (may peace be upon him) said : The pleasantest things a man enjoys come from what he earns, and his child comes from what he earns.<sup>2978</sup>

(3522) 'Ā'ishah reported the Prophet (may peace be upon him) as saying : The children of a man come from what he earns, rather they are his pleasantest earning ; so enjoy from their property.

Abū Dāwūd said : Hammād b. Abī Sūlaimān added in his version : "When you<sup>2979</sup> need." But this (addition) is *munkar* (not authoritative).

(3523) 'Amr b. Shu'aib on his father's authority said that his grandfather said that a man came to the Prophet (may peace be upon him) and said : Apostle of Allah, I have property and children, and my father finishes my property. He replied : You and your property belong to your father ; your children come from the pleasantest of what you earn ; so enjoy from the earning of your children.<sup>2980</sup>

### Chapter 1325

#### ON A MAN WHO FINDS HIS VERY PROPERTY WITH ANOTHER MAN

(3524) Samurah b. Jundub reported the Apostle of Allah (may peace be upon

2976. Qur'ān, x. 62.

2977. This tradition is not found in some copies of *Sunan Abū Dāwūd*. Al-Khiṭṭābī says that this tradition is not relevant to pledge.

2978. This shows that the provision for the maintenance of parents is obligatory on a child if they are poor. If a child does not give provision to his parents, they can take it from his property without his permission.

2979 This means that the parents may take something from the property of their children if they are needy. This is held by al-Shāfi'i. Others do not stipulate this condition. According to them, provision for parents is incumbent on their children whether they need it or not.

2980. Some versions of this tradition have : "My father needs my property." Both these versions indicate that the parents can use the property of their children who are responsible for their maintenance.



him) as saying : If anyone finds his very property with a man, he is more entitled to it (than anyone else), and the buyer should pursue the one who sold it.<sup>2981</sup>

### Chapter 1326

#### ON A MAN WHO TAKES HIS RIGHT FROM THE PROPERTY DEPOSITED WITH HIM UNDER HIS CUSTODY

(3525) 'Ā'ishah said : Hind, the mother of Mu'āwiyah, came to the Apostle of Allah (may peace be upon him) and said : 'Abū Sufyān is a stingy person. He does not give me as much (money) as suffices me and my children. Is there any harm to me if I take something from his property ? He said : Take as much as suffices you and your children according to the custom.<sup>2982</sup>

(3526) 'Ā'ishah said : Hind came to the Prophet (may peace be upon him) and said : Apostle of Allah, Abū Sufyān is a stingy person. Is there any harm to me if I spend on his dependants from his property without his permission ? The Prophet (may peace be upon him) replied : There is no harm to you if you spend according to the custom.

(3527) Yūsuf b. Mālik al-Makkī said : I used to write (the account of) the expenditure incurred on orphans who were under the guardianship of so-and-so. They cheated him by one thousand dirhams and he paid these (this amount) to them. I then got double the property which they deserved. I said (to the man) : Take one thousand (dirhams) which they have taken from you (by cheating). He said : No, my father has told me that he heard the Apostle of Allah (may peace be upon him) say : Pay the deposit to him who deposited it with you, and do not betray him who betrays you.<sup>2983</sup>

(3528) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : Pay the deposit to him who deposited it with you, and do not betray him who betrayed you.

2981. This applies to property stolen or usurped. The owner of the property may take it if he finds it with a thief or a usurper, or with another man who bought it from him. If the owner takes his property from some buyer, he (the buyer) should get the refund of his price he made to the seller. The owner will not be responsible for the price.

2982. This shows that if a husband does not give his wife and children sufficient provision, she can take it from his property as much as caters to, her need. The amount of provision will be determined by the custom prevalent in a locality or in a family.

2983. If a man has no due to the depositor, he should not take anything from the deposit and return it intact to him. But if he has his due, he may take it from the deposit as the Prophet (may peace be upon him) allowed the wife of Abū Sufyān to take her due from his property.

*Chapter 1327*

## ACCEPTANCE OF GIFTS

(3529) 'Ā'ishah said that the Prophet (may peace be upon him) used to accept a gift and make a return for it.<sup>2984</sup>

(3530) Abū Hurairah reported the Apostle of Allah (may peace be upon him) as saying : I swear by Allah, I shall not accept gift from anyone after this day except from an immigrant Qarashī, an *Anṣārī* a Dawsī or a Thaqaḥī.<sup>2985</sup>

*Chapter 1328*

## TAKING BACK A GIFT

(3531) Ibn 'Abbās reported the Prophet (may peace be upon him) as saying : One who seeks to take back a gift is like the one who returns to its vomit.<sup>2986</sup>

Hammām said : "And Qatādah said : We regard vomiting as unlawful."

(3532) Ibn 'Umar and Ibn 'Abbās reported the Prophet (may peace be upon him) as saying : It is not lawful for a man to make a donation or give a gift and then take it back, except a father regarding what he gives his child. One who gives a gift and then takes it back is like a dog which eats and vomits when it is full, then returns to its vomit.

(3533) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying : The similitude of the one who takes back what he gifted is like that of a dog which vomits and then it eats vomit. When a donor seeks to take back (his gift), it should be made known and he informed why he sought to take it back. Then

2984. If a man has his means, he should make a return for the gift. If he has no means, he should express commendation. This is like giving thanks to him.

2985. Al-Tirmidhī has recorded this tradition in full. A desert Arab presented a she-camel to the Prophet (may peace be upon him). He gave him six young she-camels as a return for it. But the desert Arab was still displeased. When the Prophet (may peace be upon him) heard that the Arab was displeased with the return he made to him, he uttered these words. He felt inclined to accept a present from a Qarashī and others as mentioned in this tradition, because they were cultured people.

It may be noted that one should not present a gift to another man with the intention of getting more return or reward from him. People should present gifts to each other with the sincerity of heart.

2986. Taking back a gift is unlawful. Only a father is allowed to take back a gift from his child. If it is given to brothers, uncles and other kindred relatives, it cannot be taken back. This is held by Mālik, al-Auzā'ī and al-Shāfi'ī. Abū Ḥanīfah and other scholars maintain that anyone who presents a gift can, take it back except a child from his father and kindred relatives.

whatever he donated should be returned to him.<sup>2987</sup>

### Chapter 1329

#### TAKING A GIFT FOR FULFILLING ONE'S NEED

(3534) Abū Umāmah reported the Prophet (may peace be upon him) as saying: If anyone intercedes for his brother and he presents a gift to him for it and he accepts it, he approaches a great door of the doors of usury.<sup>2988</sup>

### Chapter 1330

#### ON A MAN WHO PRESENTS A GIFT TO ONE OF HIS CHILDREN MORE THAN OTHERS

(3535) Al-Nu'mān b. Bashīr said: My father gave me a gift. The narrator Ismā'il b. Sālim said: (He gave me) his slave as a gift. My mother 'Umrah daughter of Rawāḥah said: Go to the Apostle of Allah and call him as witness. He then came to the Prophet (may peace be upon him) and mentioned it to him. He said to him: I have given my son al-Nu'mān a gift, and 'Umrah has asked me to call you as witness to it. He asked him: Have you children other than him? He said: I replied: Yes. He again asked: Have you given the rest of them the same as you have given al-Nu'mān? He said: No. Some of these narrators said in their version (that the Prophet said): This is injustice. The others said in their version (that the Prophet said): This is under force. So call some other person than me as witness to it. Mughīrah said in his version: (The Prophet asked): Are you not pleased with the fact that all of them may be equal in virtue and grace? He replied: Yes. He said: Then call some other person than me as witness to it. Mujāhid mentioned in his version: They have right to you that you should do justice to them, as you have right to them that they should do good to you.<sup>2989</sup>

Abū Dāwūd said: In the version of al-Zuhrī some (narrators) said: (Have you given) to all your sons? and some (narrators) said: Your children. Ibn Abī Khālid

2987. This shows that if a man wants to take back his gift, the other man who received the gift should return it to him. But before returning he should ask the reason for return.

2988. This shows that a Muslim should intercede for a Muslim free of charge with the intention of getting reward from Allah. Muslims help each other sincerely and for payment. Accepting a gift on helping a Muslim is as unlawful as usury.

2989. This tradition shows that a man should distribute gifts among his children equally. He should not differentiate one from the other. If one donates something to his children disparately, the donation, according to Ahmad, Ishāq and al-Thawrī is unlawful. Abū Ḥanīfah, Mālik and al-Shāfi'i maintain that the donation is valid, but it is disapproved ('*Awu al-Ma'būd*, III, 317).

narrated from al-Sha'bī in his version : Have you sons other than him ? Abū al-Duhā narrated on the authority of al-Nu'mān b. Bashīr : Have you children other than him ?

(3536) Al-Nu'mān b. Bashīr told that his father had given him a slave. The Apostle of Allah (may peace be upon him) said : What is this slave ? He replied : This is my slave which my father has given me. He asked : Has he given all your brothers the same as he has given you ? He replied : No. He then said : Return it, then.<sup>2990</sup>

(3537) Al-Nu'mān b. Bashīr reported the Apostle of Allah (may peace be upon him) as saying : Act equally between your children ; Act equally between your sons.

(3538) Jābir said : Bashīr's wife said (to her husband) : Give my son your slave, and call the Apostle of Allah (may peace be upon him) as witness for me. So he came to the Apostle of Allah (may peace be upon him) and said : The daughter of so-and-so has asked me to give her son my slave and said to me : Call the Apostle of Allah (may peace be upon him) as witness for her. He asked : Has he brothers ? He replied : Yes. He again asked : Has he given them all the same as you have given him ? He replied : No. He said : This is not good, and I will be a witness to what is right.

### Chapter 1331

#### A WOMAN PRESENTING A GIFT WITHOUT THE PERMISSION OF HER HUSBAND

(3539) 'Amr b. Shu'aib, on his father's authority, said that his grandfather reported the Apostle of Allah (may peace be upon him) as saying : It is not permissible for a woman to present a gift from the property which she has in her possession when her husband owns her chastity.<sup>2991</sup>

2990. A man may have more love and affection for one of his children than others. This is but natural. But he should not give them gifts disparately. A man himself wants that his children should show him equal filial piety. Likewise, he should behave with them with parity and justice.

2991. As women generally lack wisdom and intelligence, the Prophet (may peace be upon him) forbade them as a precaution to present a gift from the property of their husbands without their permission. It is better that they should consult them. This question is disputed among scholars. Al-Laith b. Sa'd thinks that it is absolutely unlawful for a woman to give anything, much or little, from her husband's property without his permission. Mālik and Tāwūs maintain that she can give a little from one-third of his property without his permission. In more than one-third she should take his permission. The majority of scholars maintain that she can give any amount from his property without his permission provided she is not impudent. If she is impudent, she is not allowed to give without his permission. They contend that once the Prophet (may peace be upon him) asked women to give *ṣadaqah* (alms) and they gave their ear-rings without the permission of their husbands ('*Awān al-Ma'būd*, III, 317).

(3540) 'Abd Allah b. 'Amr reported the Apostle of Allah (may peace be upon him) as saying: It is not permissible for a woman to present a gift (from her husband's property) except with the permission of her husband.

### *Chapter 1332*

#### LIFE-TENANCY

(3541) Abū Hurairah reported the Prophet (may peace be upon him) as saying: Life-tenancy is permissible.<sup>2992</sup>

(3542) A similar tradition has also been transmitted by Samurah from the Prophet (may peace be upon him) through a different chain of narrators.

(3543) Jābir reported the Prophet (may peace be upon him) as saying: What is given in life-tenancy belongs to the one to whom it is given.<sup>2993</sup>

(3544) Jābir reported the Prophet (may peace be upon him) as saying: If anyone is given life-tenancy, it belongs to him and to his descendants. His descendants who inherit him will inherit from it.<sup>2994</sup>

(3545) The tradition mentioned above has also been narrated by Jābir from the Prophet (may peace be upon him) to the same effect through a different chain of narrators.

Abū Dāwūd said: A similar tradition has also been transmitted by al-Laith b. Sa'd from al-Zuhri, from Abū Salamah from Jābir.

### *Chapter 1333*

#### PROPERTY GIVEN IN LIFE-TENANCY WITH THE MENTION OF DESCENDANTS

(3546) Jābir reported the Apostle of Allah (may peace be upon him) as saying: If anyone has property given him in life-tenancy for the use of himself and his descendants, it belongs to the one to whom it is given and does not return to the one

2992. *'Umrā* or life-tenancy means that a man donates a thing to another for life. This custom was prevalent in pre-Islamic Arabia. But this was returned to the owner after the death of that man to whom the property was given. In Islam the object donated as life-tenancy belongs to the man to whom it is donated, and it is not returned to the owner when he dies, except that he stipulates so.

2993. This shows that what is given in life-tenancy will be the property of the person to whom it is given. It is not given back to the man who gives it. His heirs will inherit it after his death. This is held by Abū Ḥanīfah and al-Shāfi'i. Mālik thinks that it will be returned to the donor, and to his heirs if he dies if he does not mention his descendants.

2994. This shows that the descendants will inherit from the property given in life-tenancy.



who gave it, because he gave a gift which may be inherited.<sup>2995</sup>

(3547) The tradition mentioned above has also been transmitted by Ibn Shihāb (al-Zuhri) through a different chain of narrators and to the same effect.

Abū Dāwūd said : A similar tradition has been transmitted by 'Aqīl from Ibn Shihāb and by Yazīd b. Abī Ḥabīb from Shihāb. Al-Auzā'ī's wordings<sup>2996</sup> vary from those of Ibn Shihāb. Fulaih b. Sulaimān also narrated the tradition like that of Mālik.<sup>2997</sup>

(3548) Jābir b. 'Abd Allāh said : The life-tenancy which the Apostle of Allāh (may peace be upon him) allowed was only that one should say : It is for you and your descendants. When he says : It is yours as long as you live, it returns to its owner.

(3549) Jābir reported the Prophet (may peace be upon him) as saying : Do not give property to go to the survivor and do not give life-tenancy. If anyone is given something to the survivor or given life-tenancy, it goes to his heirs.<sup>2998</sup>

(3550) Jābir b. 'Abd Allāh said : The Apostle of Allāh (may peace be upon him)

2995. While giving the property in life-tenancy to someone if the owner mentions that the property is for his use and for his descendants, it will belong to the descendants after his death. If he does not mention the descendants, the property will return to the donor. This is held by Mālik and al-Shāfi'ī. The other point of view goes that the property will belong to his descendants after his death even if the donor does not mention the descendants. This is maintained by Sufyān al-Thawri, Aḥmad and Ishāq ('*Awn al-Ma'būd*, III, 319).

2996 Al-Auzā'ī sometimes narrates the wordings "for his descendants," and sometimes he omits them.

2997. He mentions the wordings "for his descendants" in this version as Mālik narrates.

2998. '*Umrā* and *ruqbā* are two kinds of donations. '*Umrā* means to give a thing to someone for the use during his life. *Ruqbā* means to give something to a man by saying : This is yours if I die before you, and this is mine if you die before me. This type of donation is said to be objectionable for it may lead the donor and the donee to hope the other dies first. But there are many other traditions which validate this donation. Both these donations belong to the one to whom they are given, and to their descendants after their death. Imām al-Nawawī says that there are three forms of life-tenancy ('*umrā*) : First, a man says to another : I give you this house. When you die, it belongs to your heirs or your descendants. In this form there is no disagreement. It belongs to the man to whom it is given, and to his descendants after his death. Second, he says to him : I give you this house for your life. Al-Shāfi'ī holds two opinions about its validity. The more correct is that it is valid. It will belong to him and to his descendants. Third, he says to him : I give this house to you. When you die, it will return to me or to my heirs if I die. Its validity is disputed. What is more correct is that it is valid. The house will belong to the one to whom it is given and to his heirs after him. According to Aḥmad b. Ḥanbal, unconditional life-tenancy is valid and not conditional for a temporary period. Mālik holds that life-tenancy in all cases is the ownership of usufruct of the object donated, and the person to whom the object is given does not own the object substantially. Abū Ḥanīfah, al-Thawri, al-Ḥassān b. Sāliḥ and Abū 'Ubaidah maintain that life-tenancy in all cases is valid and the object belongs to the person to whom it is given permanently ('*Awn al-Ma'būd*, III, 320).

decided a case of a woman from the *Anṣār* to whom an orchard of date-palms was given by her son. She then died. Her son said : I gave it to her for her life, and she has brothers. Thereupon the Apostle of Allah (may peace be upon him) said : It belongs to her during her life and after death. He then said : I gave a *sadaqah* (charity) to her. He replied : It is more unexpected from you.

### Chapter 1334

#### DONATION OF PROPERTY TO GO TO THE SURVIVOR

(3541) Jābir reported the Apostle of Allah (may peace be upon him) as saying : Life-tenancy is lawful for the one to whom it is given and donation of property to go to the survivor is lawful to whom it is given.<sup>2999</sup>

(3552) Zaid b. Thābit reported the Apostle of Allah (may peace be upon him) as saying : If anyone gives something in life-tenancy, it belongs to the one to whom it is given, in his life and after his death ; and do not give property to go to the survivor, for if anyone gives something to go to the survivor, it belongs to him.

(3553) Mujāhid said : '*Umrā* means that a man says to another man : It belongs to you so long as you live. When he says that, it belongs to him and to his heirs. *Ruqbā* means that a man says to another : From me and from you.<sup>3000</sup>

### Chapter 1335

#### ON COMPENSATION FOR THE LOSS OF OR DAMAGE TO A THING BORROWED

(3554) Samurah reported the Prophet (may peace be upon him) as saying : The hand which takes is responsible till it pays. Then al-Ḥasan forgot and said : (If you give something on loan to a man), he is your depositor ; there is no compensation (for it) on him.<sup>3001</sup>

2999. *Ruqbā* means to give property to a man on condition that it belongs to him if he survives. In case he dies, it belongs to the owner. This is called *ruqbā* because one waits or hopes for the death of the other. This tradition shows that both '*umrā* and *ruqbā* are valid. This is held by scholars in general. But Abū Ḥanīfah, Mālik and Muḥammad b. al-Ḥasan invalidate it. Abū Yūsuf agrees with the majority view. Abū Ḥanīfah is reported to have said that '*umrā* is inherited but *ruqbā* is a loan to be returned. Al-Shāfi'i holds that both '*umrā* and *ruqbā* are valid ('*Awn al-Ma'būd*, III, 320).

3000. This means that it is from me to you if you survive me, and it is from you to me if I survive you.

3001. This tradition shows that if a man borrows something from another man, he should return it to him. If accidentally it is lost or damaged, there is no compensation on him. It is like a deposit with him.

(3555) Ṣafwān b. Umayyah said that the Apostle of Allah (may peace be upon him) borrowed coats of mail from him on the day of (the battle of) Ḥunain. He asked : Are you taking them by force, Muḥammad ? He replied : No, it is a loan with a guarantee of their return.<sup>3002</sup>

Abū Dāwūd said : This is a tradition narrated by Yazīd (b. Hārūn) at Baghdad. There is some change in the tradition narrated by him at Wāsiṭ, which is something different.

(3556) 'Abd al-'Azīz b. Rufai' narrated on the authority of some people from the descendants of 'Abd Allah b. Ṣafwān who reported the Apostle of Allah (may peace be upon him) as saying : Have you weapons, Ṣafwān ? He asked : On loan or by force ? He replied : No, but on loan. So he lent him coats of mail numbering between thirty and forty ! The Apostle of Allah (may peace be upon him) fought the battle of Ḥunain. When the polytheists were defeated, the coats of mail of Ṣafwān were collected. Some of them were lost. The Apostle of Allah (may peace be upon him) said to Ṣafwān : We have lost some coats of mail from your coats of mail. Should we pay compensation to you ? He replied : No, Apostle of Allah, for I have in my heart today what I did not have that day.

Abū Dāwūd said : He lent him before embracing Islam. Then he embraced Islam.

(3557) The tradition mentioned above has also been transmitted by 'Aṭā' from some people of the descendants of Ṣafwān saying : The Prophet (may peace be upon him) borrowed. He then transmitted the rest of the tradition to the same effect.

(3558) Abū Umāmah said : I heard the Apostle of Allah (may peace be upon him) as saying : Allah, Most Exalted, has appointed for everyone who has a right what is due to him, and no will be made to an heir, and a woman should not spend anything from her house except with the permission of her husband. He was asked : Even foodgrain, Apostle of Allah ? He replied : That is the best of our property. He

3002. This tradition is a basis of contention of those scholars who hold that compensation should be paid for the loss of a borrowed thing. According to them the adjective indicates the nature of a thing given on loan. It means that if a borrowed object is lost, compensation for it shall be given. Those who maintain that no compensation is necessary for the loss of a thing borrowed interpret it differently. They contend that it is a particular adjective used by the Prophet (may peace be upon him) for the object borrowed by him. He meant that he did not borrow the coats of mail absolutely, but he borrowed on condition that he would pay the compensation for them if they were lost. From this it is inferred that no compensation is necessary if the object given on loan is lost. Ibn 'Abbās, Abū Hurairah, 'Aṭā', al-Shāfi'i and Aḥmad maintain that compensation should be paid by the borrower if the object borrowed by him is lost. Shurā'ih, al-Ḥasan al-Nakha'i, Abū Ḥanīfah and al-Thawrī hold that compensation is not necessary if the borrowed object is lost accidentally. If the object is lost or damaged by the borrower intentionally, he will pay compensation for it. 'Alī and Ibn Mas'ūd are also reported to have held this view ('*Awn al-Ma'būd*, III. 321).

then said: A loan must be paid back, a she-camel lent for a time for milking<sup>3003</sup> must be returned, a debt must be discharged,<sup>3004</sup> one who stands surety is held responsible.<sup>3005</sup>

(3559) Ṣafwān b. Ya'ālā said on the authority of his father Ya'ālā who said: The Apostle of Allah (may peace be upon him) said to me: When my messengers come to you, give them thirty coats of mail, and thirty camels. I asked: Apostle of Allah, is it a loan with a guarantee of its return,<sup>3006</sup> or a loan to be paid back?<sup>3007</sup> He replied: It is a loan to be paid back.

### Chapter 1336

#### ON A MAN WHO DAMAGES A THING OF SOME PERSON IS RESPONSIBLE FOR RETURNING THE LIKE OF IT

(3560) Anas said: The Apostle of Allah (may peace be upon him) was with one of his wives. One of the Mothers of the Faithful sent a bowl containing food through a servant of hers. She struck with her hand and broke the bowl. Ibn al-Muthannā's version has: The Prophet (may peace be upon him) took the pieces of the bowl, and joined one with the other, and began to collect the food in it, saying: Your mother is jealous. Ibn al-Muthannā added: Eat. They ate till a bowl of the one in whose house he was was brought. (Abū Dāwūd said:) We then returned to the version of the tradition of Musaddād: He said: Eat. He detained the servant and the bowl till they were free. Then he returned the sound bowl to the messenger and detained the broken one (bowl) in his house.<sup>3008</sup>

3003. *Manḥāh* may be a she-camel or any animal lent for a time for milking, but it can be used of other things which are lent for use. It may be an animal lent for milking, a tree for eating its fruit, or land lent for cultivation. Such an object should be returned after its use to the owner.

3004. It is necessary to pay back the loan. Some traditions indicate that Prophet (may peace be upon him) did not say funeral prayer over a Muslim who did not pay his debt. This shows that it is a grave sin to neglect payment of debt.

3005. If a man stands surety for debt, he will be responsible to pay the debt on behalf of the debtor.

3006. This refers to a loan of a thing in which case its price can be paid if it is lost or damaged.

3007. This means the loan of a thing which must be returned itself and not its price. If it is lost, its compensation will not be paid except that there is such stipulation at the time of borrowing.

3008. The Prophet (may peace be upon him) was in the house of 'Ā'ishah. The name of the wife who sent the bowl is disputed: Zainab, Umm Salamah and Ṣaffiyyah.

This shows that if a man damages a thing of some person, he should return it like it if it is fungus. The return of the price of a non-fungus is disputed. Al-Shāfi'ī and Abū Ḥanīfah

(3561) 'Ā'ishah said : I saw no one cooking food like Ṣafīyyah. She cooked food for the Apostle of Allah (may peace be upon him) and sent it. I became angry and broke the vessel. I then asked : Apostle of Allah, what is the atonement for what I have done ? He replied : A vessel like (this) vessel and food like (this) food.

### Chapter 1337

#### DAMAGING OF STANDING CROP OF THE PEOPLE BY THE CATTLE

(3562) Ḥarām b. Muḥayyishah said on the authority of his father : The she-camel of Barā' b. 'Āzib entered the garden of a man and did damage to it. The Apostle of Allah (may peace be upon him) gave decision that the owners of properties are responsible for guarding them by day, and the owners of animals are responsible for guarding them by night.<sup>3009</sup>

(3563) Al-Barā' b. 'Āzib said that he had a she-camel which was accustomed to graze the standing crop belonging to the people. She entered a garden and did damage to it. The Apostle of Allah (may peace be upon him) was informed about it. So he gave decision that the owners of gardens are responsible for guarding them by day, and the owners of the animals are responsible for guarding them by night. Any damage done by animals during the night is a responsibility lying on owners.

maintain that the like of it should be returned, whether it is an animal or any other thing. Its price should be paid when its equal is not available. According to another view, the price of a non-fungus should be paid. Mālik and Abū Ḥanīfah hold that the things which are measured or weighed should be paid in their similar kind. As to other goods and animals, their price can be paid in case of their damage (*'Awn al-Ma'būd*, III, 322).

3009. If the animals damage the garden or standing crop by day, the owners of the animals will not be responsible. If the animals damage the crop or garden by night, the owners of animals will be responsible for the damage. But this applies in case the owners are not with the animals. If the owners accompany the animals and they damage the garden, the owners of the animals will be responsible. This view is held by Mālik and al-Shāfi'i. Abū Ḥanīfah maintains that if the owner does not accompany the animal and it damages the crop, the owner will not be responsible, whether it damages by day or by night (*'Awn al-Ma'būd*, III, 323).



